

MEETING
STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOURCES AGENCY BUILDING AUDITORIUM
1416 9th STREET
SACRAMENTO, CA

FRIDAY, MAY 16, 2008
8:30 A.M.

LINDA KAY RIGEL, CSR
CERTIFIED SHORTHAND REPORTER
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APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Francis Hodgkins, Vice-President

Ms. Maureen Doherty, Secretary

Ms. Teri Rie, Member

Ms. Rose Marie Burroughs, Member

Mr. John W. Brown, Member

BOARD STAFF

Jay Punia, Executive Officer

Virginia Cahill, Deputy Attorney General

Gary Hester, Chief Engineer

Eric Butler, Senior Engineer

Lorraine Pendlebury, Staff Analyst

Geoff Shumway, Staff Analyst

DEPARTMENT OF WATER RESOURCES

Mr. Keith Swanson, Chief, Flood Maintenance Office

Mr. Jon Yego, Chief, Floodway Protection Section

Mr. Linus Paulus, Chief, Encroachment Permit and
Property Management Section

Ms. Nancy Finch, Legal Counsel

Mr. Yemi Okupe

Mr. Noel Lerner, Branch Chief, Maintenance Support

Mr. Eric McGrath

Mr. Kip Young

Ms. Deborah Condon

ALSO PRESENT

Mr. Louis Arges, resident West Sacramento

Mr. Keith Swanson, Chief, Flood Maintenance Office

Mr. Paul Brunner, Three Rivers Levee Improvement
Authority

Mr. Manuel Basterrechea

Mr. Jim Stadler, Kaweah Delta Water Conservation
District

Mr. Zachary Smith, General Counsel, Kaweah Delta
Water Conservation District

Mr. Peter Buck, Sacramento Area Flood Control Agency

Ms. Laura Lynn Gordon, Caltrans

Ms. Susan Dell'Osso, River Islands

Mr. Monty Schmidt, Natural Resources Defense Council

Mr. John Cain, Natural Heritage Institute

Mr. Glenn Gebhardt, River Islands

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1 P R O C E E D I N G S

2 --o0o--

3 PRESIDENT CARTER: Good morning ladies and
4 gentlemen. Welcome to the Central Valley Flood
5 Protection Board for May.

6 If Mr. Punia could call the roll, please.

7 EXECUTIVE OFFICER PUNIA: Jay Punia, Executive
8 Officer, Central Valley Flood Protection Board.

9 Board Member Emma Suarez, Board Member Teri
10 Rie and Board Member Lady Bug are absent. And our ex
11 officio members, Assemblymember Lois Wolk and Senator
12 Darrell Steinberg, are also absent. The rest of the
13 Board Members are present.

14 PRESIDENT CARTER: Very good, thank you.

15 At this point we'll move on to Item 2 in the
16 agenda. That's Approval of the Minutes of March 21,
17 2008.

18 BOARD MEMBER BROWN: So move, Mr. Chairman.

19 PRESIDENT CARTER: It's been moved. Do we
20 have a second.

21 VICE-PRESIDENT HODGKINS: Second.

22 PRESIDENT CARTER: Second. Any discussion?
23 All those in favor indicate by saying aye.

24 (Ayes)

25 PRESIDENT CARTER: And opposed? Let the

1 record reflect the minutes passed unanimously of the
2 Board Members present.

3 Okay. Item 3, Approval of the Agenda, are
4 there any suggested changes to the agenda as published?
5 Mr. Punia.

6 EXECUTIVE OFFICER PUNIA: Jay Punia.

7 The staff is recommending that a few items on
8 the consent Item 7 be pulled for the following meeting
9 and one item be pulled from the consent and be moved
10 under action items.

11 7B, I think applicant and staff is still
12 working on some issues with the US Army Corps of
13 Engineers, so we are requesting that 7B be pulled from
14 the agenda and moved for the following meeting, the
15 June meeting.

16 Action Item 7D permit number 18213, City of
17 Lathrop. Applicant has asked that this also be moved
18 for the June meeting. They are still working with the
19 US Army Corps of Engineers. We haven't received the
20 endorsement from the local districts and the US Army
21 Corps of Engineers.

22 Item 7F, permit number 18242 City of Atwater.
23 Staff is recommending that this item be moved from the
24 agenda and postponed for the June meeting. We are
25 still waiting for concurrence from the US Army Corps of

1 Engineers on this project.

2 Then Item number 7N, permit 18259, Caltrans
3 District 10. We are requesting that this be pulled
4 from the consent and be made an action item, and staff
5 will explain that technical issues have been resolved
6 but some administrative issues are still pending; but
7 at the request of the Caltrans, staff will recommend
8 the Board to take action and delegate authority to the
9 Executive Officer to issue the permit when we have all
10 the pieces in place.

11 Those are the proposed changes for the Board's
12 consideration.

13 PRESIDENT CARTER: Are there any other
14 suggested changes to today's agenda? Okay.

15 So just so I understand, the proposed changes
16 to today's agenda concern Consent Calendar Item 7 where
17 we have three items, 7B, 7D, and 7F which we want to
18 postpone to a future meeting; and Item 7N which we want
19 to remove from the consent and move to Item 15 under
20 hearings. Is that correct?

21 EXECUTIVE OFFICER PUNIA: Yes.

22 PRESIDENT CARTER: Okay. We'll entertain a
23 motion to approve the agenda.

24 BOARD MEMBER BURROUGHS: So move as amended.

25 PRESIDENT CARTER: Do we have a second?

1 BOARD MEMBER BROWN: Second.

2 PRESIDENT CARTER: Okay. Mr. Punia, could you
3 call the roll, please.

4 EXECUTIVE OFFICER PUNIA: Board Member Butch
5 Hodgkins?

6 VICE-PRESIDENT HODGKINS: Aye.

7 EXECUTIVE OFFICER PUNIA: Board Member John
8 Brown?

9 BOARD MEMBER BROWN: Aye.

10 EXECUTIVE OFFICER PUNIA: Board Member Rose
11 Marie Burroughs?

12 BOARD MEMBER BURROUGHS: Yes, aye.

13 EXECUTIVE OFFICER PUNIA: President Ben
14 Carter?

15 PRESIDENT CARTER: Aye. So the motion carries
16 unanimously of those Board Members present. Thank you.
17 Okay.

18 At this time, we have Item 4, Public Comment.
19 This is a time when the Board invites any member of the
20 public to address the Board on nonagendaized items.
21 This is a time where we ask the public to come and
22 please limit their comments to five minutes.

23 If you do want to be recognized, we ask you to
24 please fill out one of the 3-by-5 cards that are
25 available on the table at the entrance to the

1 auditorium, also from Ms. Pendlebury here at the front
2 desk.

3 So I don't have any cards at this point.
4 Looks like we have one member of the public that does
5 wish to address the Board.

6 MR. ARGES: I have a bunch of pamphlets that I
7 want to -- they told me to bring them over.

8 PRESIDENT CARTER: If you could sir, please go
9 ahead and go to the podium and introduce yourself for
10 the record, and then go ahead.

11 MR. ARGES: Up here?

12 PRESIDENT CARTER: Yes, please.

13 MR. ARGES: My name is Louis Arges, and I
14 reside in West Sacramento, and I own all the land on
15 the Port of Sacramento that adjoins the City of West
16 Sacramento.

17 And I built a home there, and so I -- I've
18 got -- I sold a piece of property and was told that we
19 could go ahead and build on it and everything else.
20 Then they tell us now that they can't do anything on
21 levees.

22 This levee is 320 feet wide, and it's about
23 400 feet on the base. So it's the biggest levee in the
24 state except for the Port levy on the other side which
25 is 800 feet on the west side which controls all the

1 Yolo Bypass.

2 So this levee where my home is is 31 feet, and
3 it comes down to 2 feet at Jefferson Boulevard. So at
4 Jefferson Boulevard, if the highest water we had was 2
5 feet more to go over the top -- I went to the Corps of
6 Engineers at the time we measured it, and my house
7 would still be 28 feet high from that there, and all of
8 West Sacramento would be under water.

9 So this levee does not have any protection for
10 the city at all as far as a flood protection levee.
11 And I've got two different Boards that I went to
12 before, and they both commented on it, and also some of
13 the staff had commented on the same.

14 But this is a -- the Corps of Engineers has
15 put the -- this is part of their floodplain thing, and
16 so the Department of Water Resources has restrictions
17 on it and everything and how you build and what you do,
18 so we have to get permits to build anything.

19 And now we're told we can't build anything
20 else on it, and I just spent \$1 million with the last
21 piece of ground, so I don't -- I don't know what to say
22 there. And I do have --

23 PRESIDENT CARTER: Mr. Arges, please, are you
24 speaking of your permit before the Board regarding the
25 windmill?

1 MR. ARGES: This is RD 900.

2 PRESIDENT CARTER: Okay. So this does not
3 pertain to the permit that you submitted to the Board
4 regarding the installation of a wind turbine?

5 MR. ARGES: A windmill, yeah.

6 PRESIDENT CARTER: It does. Okay.

7 MR. ARGES: The property's right here.

8 PRESIDENT CARTER: If you would like -- that
9 is agendaized for today. If you would like -- and
10 that's agendaized for the Consent Calendar. If you
11 would like to pull that from the Consent Calendar, we
12 can do that. This time really is allocated for
13 nonagendaized items, though, for public comment.

14 MR. ARGES: I understand. That's why I didn't
15 want to take up much of your time. But I do have a
16 pamphlet for everything, and I could add to it and so
17 we could set it up on a new agenda.

18 PRESIDENT CARTER: Okay. Is it your request
19 that the Board hear your permit today separately from a
20 Consent Calendar?

21 MR. ARGES: This one here on the windmill, I'd
22 like you to listen to his report.

23 PRESIDENT CARTER: Okay. Are there any
24 objections of the Board or staff?

25 BOARD MEMBER BROWN: No objections. No

1 objections, but it seems like he'd want to leave it on
2 the Consent Calendar for the permit. It's a Consent
3 Calendar for approval. Do you wish it not to be
4 approved?

5 PRESIDENT CARTER: I guess the question before
6 us is to -- if you want to testify on behalf of the
7 permit, then we will pull the item from the Consent
8 Calendar and hear it as part of hearings. If that's
9 your desire, we will do that.

10 MR. ARGES: I don't -- I'm having trouble
11 hearing. I need to get a hearing aid.

12 PRESIDENT CARTER: I want you to understand
13 that if you would like to make a comment and like us to
14 hear the permit as part of the Board, we can do that
15 today. We will pull the item from the Consent Calendar
16 and then hear it as part of hearings.

17 MR. ARGES: Leave the wind on the calendar.

18 PRESIDENT CARTER: Okay. So Mr. Arges, what
19 is your concern then? What did you want to tell the
20 Board?

21 MR. ARGES: For me?

22 PRESIDENT CARTER: Yeah, what you said was
23 that the levee that you lived next to near the Port of
24 Sacramento had no flood protection purpose?

25 MR. ARGES: That there, the -- two Boards

1 before your Board said that they should have
2 declassified that as a flood control levee. I got all
3 the minutes of every one in my pamphlet here, and she
4 could hand them out to you. Or do you want to do it to
5 the next agenda, either way.

6 PRESIDENT CARTER: Mr. Hodgkins?

7 VICE-PRESIDENT HODGKINS: Can staff help us
8 out? I have the impression that there's been
9 discussions about a permit for a home, and that's not
10 moving forward and that's the issue? I'm asking.

11 CHIEF ENGINEER HESTER: Member Hodgkins, I do
12 not know very much about the earlier permit.
13 Unfortunately, our staff Steve Dawson who is the most
14 knowledgeable about that existing permit is out ill
15 today, so I am not really prepared to address some of
16 the earlier discussions that have occurred with the
17 applicant, what the basis for some of that discussion
18 is.

19 VICE-PRESIDENT HODGKINS: Okay. Would it be a
20 reasonable thing to do to ask you between now and our
21 June meeting to meet with Mr. Hester? Then Mr. Hester,
22 if there is a permit issue here, could you at least
23 report back to us on what that is at the next Board
24 meeting?

25 CHIEF ENGINEER HESTER: Yes, I will. I'd be

1 more than happy to meet with Mr. Arges and report back.

2 VICE-PRESIDENT HODGKINS: I think it would be
3 helpful for the Board if -- you've been working with
4 one of our staff, and unfortunately he's not here
5 today.

6 We would like to be sure we understand what
7 your issue is and what staff's doing, and so we're
8 asking that you work with staff and together you tell
9 us what the problem is but at the June meeting. Is
10 that all right?

11 MR. ARGES: That's fine.

12 VICE-PRESIDENT HODGKINS: Thank you.

13 PRESIDENT CARTER: Mr. Arges, if you would
14 like to make your documentation or pamphlets available,
15 please give them to Ms. Pendlebury. She'll make sure
16 the Board Members see those.

17 MR. ARGES: All right.

18 PRESIDENT CARTER: Thank you.

19 Are there any other members of the public who
20 wish to address the Board on nonagendaized items? Very
21 good. We will move on.

22 Item 5, Report of the Activities of the
23 Department of Water Resources. Mr. Swanson, good
24 morning. Welcome.

25 CHIEF SWANSON: Good morning, Keith Swanson

1 Chief of the Flood Maintenance Office. George Qualley
2 asked if I could give this report today to you. George
3 had an opportunity to go on one of the famous Don
4 Meisner tours with some of core management and so he
5 took advantage of that opportunity.

6 I want to start out by talking a little bit
7 about the PL 84-99 Eligibility Retention Framework,
8 also referred to as the Roundtable. It's certainly
9 been an interesting process, and I want to give you
10 some of my observations for it and certainly invite the
11 Board participants, President Carter and Rose Marie
12 Burroughs, to comment on the process also and
13 especially if I say something that they take offense to
14 that I say.

15 We have had a lot of ongoing meetings and, you
16 know, it started out with the first meeting something
17 that was, you know, a lot of collaboration and seemed
18 to back off a little bit and the course seemed to take
19 a harder line about where they wanted this process to
20 end up.

21 The Department took on the responsibility of
22 drafting up a document trying to lay a path forward.
23 This initial document that was produced met varying
24 degrees of acceptability depending on who the parties
25 were.

1 The Corps seemed to be pushing more for a
2 document that had a lot of specific milestones in it,
3 very specific on deliverables, dates, that type of
4 thing. They thought it had way too much background on
5 why we're in the predicament that we're in.

6 And then the resource agencies looked at it
7 and said they really didn't see an overall conservation
8 strategy how issues with resources would be dealt with
9 as we move forward.

10 In response to the comments, the Department
11 developed a complete new draft and focused in on a lot
12 of the things that are going on in California
13 associated with the FloodSAFE Initiative.

14 And we did a good job of laying out those
15 things to be completed, and things that are underway,
16 and there was a lot of discussion about the State Plan
17 of Flood Control and where that might lead us.

18 Both agencies -- all the various agencies
19 commented on that. We've met subsequent to the
20 document being produced. We have had a lot of
21 discussions with the various groups. And, you know,
22 there are times when we seem like we're coming together
23 and times we seem like we're still divergent in where
24 we're headed.

25 I think clearly DWR has articulated a number

1 of things. One is that on a short-term basis we're
2 moving forward with our FloodSAFE Initiative. We have
3 \$5 billion at our disposal, and we're moving forward to
4 address major public safety issues associated with a
5 system that has a lot of problems.

6 Clearly, maintenance is key. Improved
7 maintenance is something the Department is focusing in
8 on and taking very seriously, and management is a
9 component of that.

10 We're moving forward in a very expeditious
11 manner to try to implement the management philosophies
12 that are represented by some cross-sections that were
13 developed that talked about managing vegetation for
14 visibility and accessibility.

15 And there was a lot of focus placed on the
16 land side slopes, the crowns of the levees, and the top
17 20 feet of the water side. So we're moving forward
18 with that, and again it's based on visibility and
19 accessibility.

20 Long-term, there's -- the State is looking to
21 develop actions based on the State Plan of Flood
22 Control, and we feel like there's a lot of critical
23 needs of the various stakeholders that have been
24 addressed in order for us to have a sustainable system
25 when we get through with it.

1 Certainly the operational issues have to be
2 addressed. We need a system that will safely pass the
3 design flows. There's no question. We need to deal
4 with geotechnical deficiencies associated with seepage,
5 stability, grade, basic section, erosion, that type of
6 thing. We need assurances that we can do our
7 maintenance.

8 There's no question about the fact that we
9 need to be able to identify a problem in the spring and
10 have it fixed before the next flood season.

11 As maintainers, we cannot take on the
12 responsibility or the liability for being successful in
13 recreating habitat that attracts endangered species.
14 We can't be held accountable for the success of species
15 recovery by having to provide ongoing maintenance or
16 mitigation every time we want to do maintenance. And
17 we need some kind of safe harbor-type provision.

18 Then it's clear that in order for us to move
19 forward in the operation and maintenance things we need
20 to make sure we have environmental components in our
21 system that lead to species recovery.

22 So those things seem to be, from my
23 perspective, the critical needs of the various
24 stakeholders involved in the discussions.

25 Now this is a long-term vision. I mean, it's

1 not going to happen overnight. You know, a 50-year
2 vision or maybe longer. It's going to be highly
3 funding dependent, you know.

4 And it's going to vegetation removal, and the
5 Corps seems to be very fixated on the vegetation
6 removal. But it's also going to have to be vegetation
7 management.

8 It's going to have to be -- include berm
9 protection. The existing berms that are out there in
10 the system will need to be protected.

11 And in some instances, like in critical
12 erosion repairs, there are new berms that were created.
13 Those berms represent habitat, but they also enhance
14 the system from a geotechnical perspective, so that's
15 something that will have to be incorporated into the
16 system.

17 And then setback levees. We've already seen
18 with our early implementation projects, setback levees
19 along new alignments, and we've seen setback levees
20 that are part of overbuilt sections.

21 So those are the types of inclusions that
22 we're going to have to identify and bring in, you know,
23 bring to construction in order for us to be successful
24 long-term.

25 I want to emphasize that it is very much

1 funding dependent. And so far, you know, the State has
2 come up with money. The federal government has not had
3 a lot of money to add to the solution. So that's
4 something we're going to have to certainly work on to
5 be successful long-term.

6 An issue that came up in our latest
7 discussions last Friday with the Corps had to do with
8 FEMA eligibility. And what became apparent is that the
9 Corps, while they're talking to us about the PL84-99
10 issue, and the retention of PL84-99, has been talking
11 to FEMA.

12 And the Corps has been proposing that the
13 State adopt their new inspection standards and that per
14 those new inspection standards levees with vegetation
15 on them be given unacceptable ratings.

16 Then based on those unacceptable ratings, it's
17 my understanding that FEMA would be obliged or
18 obligated to decertify the levees from 100-year
19 certification.

20 So that's probably a bigger issue that we
21 really haven't discussed much as a group in the
22 Roundtable. There have been discussions about the need
23 to bring FEMA into the discussion, and FEMA has come to
24 one or two of the meetings for a brief period of time.
25 But that's probably a bigger issue than the

1 recommendation of PL84-99, the rehabilitation funding.

2 There is a schedule as we move forward. On
3 May 23rd, comments are due on the latest draft of the
4 Framework Agreement. So we sent the document out to
5 the various participants, and we're really in the edit
6 mode at this point in time.

7 Having said that though, there a divergence of
8 opinion on where we're going, so it's going to be a big
9 job to finalize the document.

10 On June 6th, there is a revised draft that's
11 supposed to be provided to all of the participants.

12 And then there is going to be a June 13th
13 Roundtable meeting, hopefully to bring us to closure.
14 And there was discussion that maybe there would be a
15 joint communique after the Framework was finished to
16 kind of celebrate and document that the agreement's
17 reached.

18 I don't know if anybody wanted -- if the Board
19 Members who participated wanted to comment on this. If
20 not, I'm going to move on to the Early Implementation
21 Program.

22 PRESIDENT CARTER: Butch, do you have a
23 question?

24 VICE-PRESIDENT HODGKINS: Are you optimistic
25 that schedule is attainable?

1 CHIEF SWANSON: My feeling is that it's going
2 to be very difficult to reach consensus, and my feeling
3 is that the various participants are going to have to
4 take a deep breath and decide if they're getting what
5 they want out of the document, you know, as far as how
6 much support they're willing to lend to the finished
7 document.

8 It's a contentious issue. This goes back
9 50 years, 100 years in the making. And it really
10 represents this long-standing conflict between public
11 safety and the environment and having to deal with a
12 system that was never designed to address the issues.

13 And so, you know, clearly from my perspective,
14 you know, we are making good progress. We're doing a
15 lot of good things. It's just -- to me, it's a
16 question of how much pressure the Corps is going to
17 continue to bring to bear to try to force an agenda.
18 You know.

19 PRESIDENT CARTER: If I could just add one
20 comment. My perception of the situation is -- Keith
21 says there's this give-and-take with regard to flood
22 protection and environmental restoration or protection.

23 To their credit, the resource agencies have
24 been very cooperative, have been very receptive, and
25 actively engaged in the process. The real challenge is

1 determining what the levees look like when the Corps is
2 happy versus what the levees look like when the
3 resources agencies are happy.

4 And DWR, to a certain extent, and of course
5 the Board here, is in the middle in terms of trying to
6 implement whatever standard the group does decide is
7 appropriate.

8 But, as Keith says, it will be a challenge.
9 And the real challenge is trying to reach a compromise
10 with the Corps on the implementation. They're wanting
11 a fairly strict vegetation standard on the levees, and
12 we're pushing back.

13 CHIEF SWANSON: I think, you know, I get the
14 sense they're looking more for a compliance document as
15 opposed to a framework document.

16 They're very much looking for milestones,
17 deliverables, time frames on when the State is going to
18 comply with their, I would say, new vegetation
19 standards.

20 And we're trying to say we're in this together
21 and we need your help to really redesign the system and
22 make it something that is sustainable. We've got lots
23 and lots and lots of problems that are system-wide, and
24 they're associated with the original design of the
25 system, you know, the erosion issues for one, the fact

1 that we put the levees so close to the channel and that
2 there is not much remaining habitat and all kinds of
3 latent geotechnical issues associated with the system.

4 So everybody looks at if there is money I
5 think we can come up with a new system. We just can't
6 decide what.

7 PRESIDENT CARTER: By the same token the
8 Corps, to their credit, has said, you know, we are
9 willing to consider lenience in the application of the
10 standard as long as you're making progress towards the
11 standard.

12 And the real concern they've had is that we've
13 taken so long to start making progress in terms of
14 cleaning things up. But the State through DWR and
15 Keith's efforts has done a lot of implementing their
16 newly articulated vegetation standard that came out the
17 end of the fall.

18 And the Corps sees that as very positive
19 progress, and their real concern, as Keith says, about
20 milestones is, okay, we've got these milestones; lets
21 make progress.

22 If we make progress, but we're not where we
23 want to be when we want to be but we are making
24 continuous progress and continuous improvement, then
25 we're probably going to be okay with that. So we'll

1 have to see how it all plays.

2 Go ahead.

3 CHIEF SWANSON: Okay. Moving forward, all
4 four projects associated with the Early Implementation
5 Program are moving forward.

6 Happy to pass on the information that Three
7 Rivers received a \$10 million check. Staff's
8 finalizing funding agreements on the other three
9 projects, and the expectation is that money will be
10 flowing prior to the fiscal year.

11 The Early Implementation Projects Branch is
12 also implementing two competitive grants programs to
13 evaluate and make urgent repairs to nonfederal levees.
14 The Local Levee Evaluation Program is scheduled to be
15 funded with \$20 million, and the Local Levee Urgent
16 Repair Projects are scheduled to receive up to
17 \$40 million.

18 There was a public workshop held May 14, and
19 proposals are due on June 30th.

20 In my Maintenance Support Office, a number of
21 activities we want to report on. One project, the
22 Garmire Road Bridge, I'm happy to pass on is under
23 construction. And that means that this coming flood
24 season is the last flood season we're going to have to
25 deal with the existing Garmire Road Bridge.

1 So there is a whole lot of us that are really
2 happy. The maintenance yard used to try to fight the
3 debris that plugged up, you know, that caught up on
4 that bridge with its 42-foot-wide bins. So that will
5 be gone, you know, after one more flood season.

6 We had some interesting discussions with the
7 Regional Water Quality Control Board. They are moving
8 forward with a basin plan amendment for mercury control
9 in the Sacramento-San Joaquin River Delta Estuary.

10 DWR participated in some Regional Board
11 hearings at the end of April. The Department testified
12 that they are more than willing to cooperatively work
13 with the Regional Board, but we had legitimate concerns
14 about the implementation of this program.

15 We're concerned with potential impacts to
16 resource recovery and our flood protection projects
17 that we're trying to implement with FloodSAFE.

18 The Board appears to be looking at the
19 Department as a funding source to move their initiative
20 forward. Our concern would be that we have a lot of
21 studies that are required for us to move forward with
22 construction projects.

23 They are looking at the Cache Creek settling
24 basin as kind of a key to controlling mercury flowing
25 into the Delta, and they would like a reoperation of

1 the basin. They'd like us to raise it a year early,
2 they would like us to take responsibility for mining
3 out sediment on an annual basis from the basin.

4 We're concerned about the funding obligations
5 associated with this, and we're concerned about the
6 real effect of what this might -- how much improvement
7 we might get out of this. If we're just removing
8 sediment out of the basin, yet there's more
9 mercury-contaminated sediment below that, we're not
10 sure if we're really providing any major benefit.

11 There's also mercury issues associated with
12 all the rivers and streams coming out of the Sierras,
13 and potentially we could get involved with having to do
14 a number of studies and having to come up with some
15 kind of remediation or mitigation or other activities
16 if they are linked to transport of mercury-laden
17 sediments into the Delta.

18 We had a first meeting at the staff level on
19 May 12. There are going to need to be a lot of
20 additional discussions between the Department and the
21 Board.

22 We are doing a number of things, though, that
23 do fit into the Board's overall goal of controlling
24 mercury and studying the issue. The Levee Evaluation
25 Branch is moving forward with a geomorphic study on

1 Cache Creek Watershed, and we're doing that for flood
2 control reasons to get a better handle on the
3 geomorphic instability on Cache Creek with the
4 down-cutting that's occurring, but I think it will be
5 beneficial for the Regional Board also in their effort.
6 And then my office is entering into agreements with UC
7 Davis and USGS to study the sedimentation issue in the
8 basin itself.

9 So we're working with GS to work on the
10 sediment loads entering the basin, and then we're
11 working with UC Davis to model the basin and figure out
12 how the deposition is occurring and what kind of
13 management strategies we would need in the future, and
14 so we're working on that issue.

15 The Colusa State Recreation Area Mitigation
16 Site which is providing our mitigation for Tisdale
17 Bypass is moving forward on schedule.

18 We recently worked through some real estate
19 issues with the Department of Parks and Recreation, and
20 that had to do with how we were going to deal with
21 long-term easements or agreements since we were putting
22 mitigation on their State park land. We worked out
23 language that was acceptable to all the people.

24 Plant propagation is under way. Plans and
25 specs are almost complete for the actual work, and

1 we're on base to be out to construction in October to
2 begin the installation of the irrigation system with
3 all the planting next fall.

4 Levee Repairs Branch is moving forward on a
5 number of fronts. One is with the Sac Bank program,
6 the Corps and DWR are on track to repair eight sites
7 this summer.

8 The State continues to request a third phase
9 authorization because we are running into the end of
10 the second phase authorization with Sac Bank. I'm not
11 sure we've made as much progress as we'd like, and so
12 it's something to keep an eye on long-term.

13 On the San Joaquin critical repairs, DWR hopes
14 to be in construction on three sites in that system,
15 one on the San Joaquin River, another is Paradise Cut
16 and the last one on Mormon Slough.

17 Then the Branch will be in front of you
18 requesting approval of a work agreement for the repair
19 of 1300 -- or 13,000 lineal feet on the Chowchilla
20 Bypass next meeting.

21 That 13,000 lineal feet includes 7,000 that
22 the State is funding as a betterment. The Corps has
23 identified a spot, one location, and then downstream of
24 it there was an area between the two sites we felt were
25 similar from a geotechnical perspective so we're going

1 ahead and funding the Corps and we're going to have a
2 continuance prepared for the area.

3 The 2006 PL84-99 Rehabilitation Assistance
4 Program is moving forward. These are the lower order
5 sites, the smaller sites that haven't been repaired to
6 date. The Corps and DWR are working to close out 70
7 sites this summer. It's an ambitious schedule, but I
8 think it's likely they will be able to achieve the
9 work.

10 Some of these sites are extremely small. It
11 may take a load of rock, one truckload of rock to fix
12 it. So they're moving forward with the idea they're
13 going to get 70 sites repaired this summer.

14 Levee Evaluation Branch continues on with
15 their efforts. Some of the kind of broad program
16 things they're involved with are supporting the Early
17 Implementation Program, providing geotechnical support
18 on the designs that are being funded for the Early
19 Implementation Project.

20 They are helping the Floodplain Mapping Branch
21 negotiate their ANE consultant contracts, and they're
22 also negotiating their own non-urban levee evaluation
23 contracts, so they're moving forward with that.

24 Then they had their eighth Independent
25 Consulting Board.

1 On a program front, they're doing a lot of
2 work in their three north, central, and south areas.

3 In the north area, there's Phase 1
4 Geotechnical Evaluation Reports for Sutter Basin and
5 Marysville under review, and staff recently briefed
6 Sutter Butte Flood Control Agency Board of Directors on
7 progress made to date in that area.

8 In the central region, there is a lot of field
9 work ongoing associated with data report, then the
10 report preparation that's going on in West Sacramento
11 along the American River, on the levees protecting the
12 Davis and Woodland, and on the East Main Drain. The
13 East Main Drain work, I think, the field work has been
14 completed and starting on the Phase 1 Geotechnical
15 Evaluation Report.

16 In the south region, there's Phase 1
17 Geotechnical Data Reports under development for the
18 SJAFCA levee, Calaveras River and for RD404 levees.

19 Then they're moving forward with piezometer
20 installation on the Calaveras River and post-processing
21 the bathymetric data located on the San Joaquin River.

22 Finally, I want to talk about the water
23 conditions we had January and February that, you know,
24 early February that brought significant amounts of
25 precipitation to California and including heavy

1 snowfall in the mountains.

2 Unfortunately, March and April were relatively
3 speaking some of the driest months on record. Taken in
4 conjunction with the dry ground and low reservoir
5 levels attributed to below-average precipitation last
6 year, this year is shaping up as a critical water year
7 in both the Sacramento and San Joaquin Valley.

8 With that, I'll entertain any questions.

9 PRESIDENT CARTER: Thank you. Mr. Hodgkins?

10 VICE-PRESIDENT HODGKINS: Keith, there is a
11 levee evaluation, I noticed Woodland is on the list.
12 Does that include the levees around the settling basin
13 so they are also being --

14 CHIEF SWANSON: Yeah -- and at least the
15 basin's -- is that on the north side or Woodland side?
16 I don't know if they're going all the way around, but
17 yeah. They're evaluating the risk that the basin poses
18 to Woodland.

19 VICE-PRESIDENT HODGKINS: All right. Thank
20 you.

21 PRESIDENT CARTER: Any other questions for
22 Mr. Swanson?

23 BOARD MEMBER BROWN: What's going on with the
24 dredging? Are we doing any work in channels.

25 CHIEF SWANSON: The work that we're doing is

1 the sediment removal work. We've done work in Fremont
2 and we've done work at Tisdale now, and we're moving
3 forward with plans and specs and permits to do sediment
4 removal on Sycamore Creek and Cohasset Road Bridge in
5 Chico, on Cherokee Canal, and then we're just starting
6 to look at Bear -- the Bear River.

7 As far as in water dredging, there really
8 isn't anything on the immediate horizon. I did talk
9 with Mike Inamine, who is heading up our Levee
10 Evaluations group, and asked if he couldn't have some
11 of his staff or one of his consultants look at the
12 bathymetric data that they're generating and compare it
13 to some of our as-built or, you know, long data that
14 was collected in the past to get some sense of how the
15 system is performing.

16 I think there's areas probably that are still
17 down-cutting. There might be areas that there are
18 problems along the Sacramento River, for instance,
19 below the Fremont Weir. That might be an area that has
20 sediment buildup still. I heard some complaints along
21 the main stem of the Sacramento River between Tisdale
22 and Fremont Weirs.

23 So it's probably something that needs to be
24 looked at, and we need to get a handle on it and see if
25 there is projects there. But nothing short-term is on

1 the books that I know of.

2 BOARD MEMBER BROWN: Is it being limited
3 because of cost or environmental considerations or
4 disposal of the material?

5 CHIEF SWANSON: Well, I think that, you know,
6 we have run programs without sufficient funding for so
7 long that there were just a lot of things that really
8 weren't being actively monitored. And so I think that
9 probably falls into, you know, that category.

10 Now, as we move forward, if you identify that
11 you needed the -- wanted to do a dredging project, it
12 would be very difficult to implement from an
13 environmental perspective.

14 And when they've done dredging in the Delta --
15 and it's associated more with water convenience -- it's
16 been challenging. They have done -- I mean there has
17 been maintenance dredging the Corps does on the San
18 Joaquin River associated with navigation to the
19 Stockton Port Facility, and there's been dredging
20 associated with conveyance to the State pumps. So that
21 has occurred in the relatively recent past.

22 BOARD MEMBER BURROUGHS: Mr. President?

23 Keith, in regards to the inspection that FEMA
24 just completed for the San Joaquin, do you know when we
25 will receive the final information on the levee status?

1 CHIEF SWANSON: I'm not aware of FEMA
2 inspections.

3 BOARD MEMBER BURROUGHS: FEMA said they just
4 completed -- well, their mapping.

5 CHIEF SWANSON: I know we had some
6 responsibility to provide some initial inundation maps
7 associated with some of the recently passed
8 legislation, and I think Ricardo Pineda is planning on
9 appearing before the Board next month. I think he just
10 provided something to Jay.

11 He's probably the person to ask as far as
12 what's going on with FEMA. I can pass on, you know,
13 the request that you want to get a briefing on what's
14 going on with the FEMA process.

15 I think that probably the San Joaquin and the
16 Sacramento areas would be areas that you would be
17 interested, so I could ask him --

18 BOARD MEMBER BURROUGHS: Well, she said that
19 they just completed the San Joaquin and they would be
20 starting this month on the Sacramento area.

21 PRESIDENT CARTER: Okay. Jay?

22 EXECUTIVE OFFICER PUNIA: Maybe I can
23 elaborate a little bit. Jay Punia.

24 I think FEMA is relying on the US Army Corps
25 of Engineers inspections. That data is given to the

1 FEMA, then they are tackling each county, one at a
2 time.

3 And next on the line is San Joaquin and then
4 they're coming to Sacramento and Yolo. They have their
5 own schedule. They will gather all the information
6 from the DWR reports and from the US Army Corps of
7 Engineers.

8 And then they will, as part of their map
9 modernization process, will update the firm FEMA maps.

10 BOARD MEMBER BURROUGHS: So then in regard to
11 our Roundtable discussion, there was a discussion about
12 having the different agencies join together so that
13 they're all going out at the same time for inspection.
14 Do you know if there's been any work in that direction
15 to get that accomplished?

16 CHIEF SWANSON: Are you talking about joint
17 inspection with the resource agencies and the Corps and
18 our groups? No, there has not been any of those type
19 of field meetings to date.

20 Certainly we've gone out under our efforts to
21 come up with a small erosion repair program with joint
22 teams. You know, we've had some discussions on that.
23 But as far as looking at what the consequences of
24 implementing our vegetation management cross-sections,
25 our idea that we're managing for visibility and

1 accessibility, no, we have not had any field meetings
2 yet.

3 BOARD MEMBER BURROUGHS: Thank you.

4 PRESIDENT CARTER: Any other questions for
5 Mr. Swanson? Thank you very much.

6 CHIEF SWANSON: Thank you.

7 PRESIDENT CARTER: Ladies and gentlemen, I'd
8 like to take an opportunity right here, just a little
9 bit of a break, I want to introduce a new member of the
10 flood protection team.

11 This is Mr. Jon Yego, who is sitting over here
12 at the front desk here. Jon is now the new Chief of
13 the Floodway Protection Section within DWR. And as
14 everyone here knows but perhaps not the public, the
15 Floodway Protection Section is the section that
16 essentially processes all the permits for the Board.
17 Very, very critical support group for the Board.

18 Mr. Yego has been with DWR for 17 years where
19 he served as a design engineer, construction project
20 engineer, and project inspection engineer; and he came
21 to the DWR from the Corps where he worked in Sacramento
22 District on military and civil works projects within
23 California, Utah, Nevada, and Arizona.

24 So he has terrific qualifications, very
25 dedicated. We do want to welcome you, Mr. Yego. Glad

1 to have you as part of the team and supporting public
2 safety through flood control. Thank you.

3 CHIEF YEGO: Thank you, President Carter and
4 Board Members.

5 PRESIDENT CARTER: We look forward to working
6 with you. Mr. Punia?

7 EXECUTIVE OFFICER PUNIA: I just want to
8 inform the Board, at the last meeting I informed the
9 Board we have a lot of vacancies, and I want to let the
10 Board know that George Qualley, the Division Chief, and
11 the Eric code have Acting Chief of the Flood Project,
12 jumped on it and moved the process, coordinated with
13 our Chief Engineer, scheduled the interview, hired the
14 Jon Yego as the Chief; and I have been informed they
15 also offered a job to another engineer.

16 So I want to commend the quick action by
17 George and Eric to fill those vacancies as it was
18 reported to the Board previously.

19 PRESIDENT CARTER: Great. Thank you very
20 much. All right. At this time, let's go ahead and
21 move on with our agenda. We have a Legislative Update.
22 Is Mr. Schimke with us today?

23 EXECUTIVE OFFICER PUNIA: I just got an e-mail
24 from Mr. Schimke. He's not feeling well, so I think he
25 has requested that he will brief the Board at the

1 next -- at the June meeting.

2 But Mr. Kasey Schimke and I met with Senator
3 Mike Machado's office regarding Senate Bill 1360. If
4 the Board desires, I can give a quick briefing to the
5 Board on Senate Bill 1360 right now or as a report when
6 my time comes as part of the Executive Officer report.

7 PRESIDENT CARTER: Mr. Punia, why don't you
8 just go ahead right now and give us that update. And
9 if you would ask Mr. Schimke to forward on any
10 additional comments, maybe perhaps in writing between
11 now and the next Board meeting, to the members.

12 EXECUTIVE OFFICER PUNIA: I'll do that.

13 Quick update on Senate Bill 1360. This bill
14 has been introduced by Senator Mike Machado, and this
15 is a clean-up legislation to the recently passed flood
16 legislation. There are a few correction items proposed
17 in the item so that we can implement the flood
18 legislation passed last year effectively.

19 DWR and -- the Department of Water Resources
20 and the Board staff worked collectively and is asking
21 Senator Mike Machado to add a few more items in this
22 legislation so that it can facilitate the functioning
23 of the Board.

24 As you may recall, we have informed you that
25 the evidentiary hearings and bringing all the permits

1 is creating substantial extra workload for the staff.
2 So the Department of Water Resources worked with our
3 legal counsel and the staff in proposing to the senator
4 that during the next hearing on this bill that they may
5 add three more items to this -- the language of this
6 bill.

7 One is to fix this requirement for evidentiary
8 hearings so that only the major projects which will
9 have substantial influence on the flood control system
10 be brought to the Board. The rest of the permit
11 application may be delegated to the staff to process.

12 The second item is that the ex parte
13 communication, the language in the recently passed
14 bill, is too broad. So we are requesting that the
15 language may be modified when the application has been
16 filed, then at that time the ex parte communications
17 should trigger.

18 And then the third major item we're requesting
19 to be included in this is that the way the bill is
20 proposed at this time, ex officio members of the Board
21 can appoint a designee to represent them. I think the
22 Department is taking a position that it would create
23 circumstances where a nonappointed, nonelected
24 individual can influence a flood control project, so
25 that shouldn't be the case.

1 So that language we discussed with Senator
2 Mike Machado's office. They are receptive and willing
3 to modify the proposed bill.

4 And the Department has also written a letter
5 that they will oppose this bill unless it's modified as
6 recommended by the staff, and that position has been
7 accepted by The Resources Agency, and the Governor's
8 Office, and it will be conveyed to the author of the
9 bill, Senator Mike Machado.

10 And I have the copies of the letters which I
11 will share with you reflecting these indications from
12 the Department of Water Resources.

13 And I'll be glad to answer any questions that
14 you have.

15 PRESIDENT CARTER: Any questions for
16 Mr. Punia? Very good. Thank you.

17 Let's move on to item six. Three Rivers Levee
18 Improvement Authority Monthly Report. Mr. Brunner,
19 good morning, welcome.

20 MR. BRUNNER: Good morning, President Carter,
21 Members. Paul Brunner, Executive Director of Three
22 Rivers.

23 I want to point you again to our monthly
24 report. I'll be giving a summary recap of the
25 significant items we have in the report.

1 I'll start with the funding update and the
2 very first page, and I want pick up where Keith left
3 off on the EIP funding. We did receive the \$10 million
4 and did come to the first quarterly update or first
5 quarterly funding for our project. That will cover the
6 construction through June.

7 And then we have another quarterly update for
8 more construction funding coming to us. That will
9 cover us through August, September, and, you know,
10 July, August, and September.

11 So that's really positive news. That's for
12 up-front construction costs where the State did agree
13 to fund us for that.

14 Since that time, we do have an approved real
15 estate plan now, and DWR is working with us to cut
16 those checks and make the money flow into the State
17 treasury for the eminent domain and also make payments
18 to the loan sellers and that's real positive news for
19 us.

20 On item number a) on the report, where we have
21 the second implementation plan, the attorneys are still
22 working through that as far as what obligations are
23 left, and they've made that shift in our funding
24 program. So Scott will still be working that and in
25 the future will be coming back with an update for you

1 as to what are the requirements still remaining.

2 PRESIDENT CARTER: Which A was that?

3 MR. BRUNNER: It was 1 a) under Funding.

4 PRESIDENT CARTER: 1 a).

5 MR. BRUNNER: On number 2, on the Levee Design
6 and Construction Work, the Yuba analysis continues on.
7 MBK is working that, and I don't have any more of an
8 update than what's in the report right now.

9 Moving to page 2, on the Phase 4 Feather River
10 work under Segments 1 and 3. I reported last time that
11 Segment 1 was awarded, and it is -- they are now
12 mobilizing at the site, and we expect construction work
13 to start on Monday. In fact, levee degradation may
14 actually start on Monday to start the slurry wall work
15 on that and that portion of the work.

16 Segment 3 has been under way for several weeks
17 now, under construction. They've completed about a
18 thousand foot of slurry wall on that particular reach.

19 On the request for changes for the -- on
20 number c) there under Segments 1 and 3, we're still
21 working with the Flood Protection Board staff on that.
22 The Corps still hasn't responded as far as I know yet
23 to our request for the amendments, and so Jay has not
24 yet had the opportunity, I think, to sign off. We know
25 of no problems with the changes that we're proposing;

1 the Corps just hasn't had the time to finalize the
2 response.

3 On Segment 2, we did go ahead on -- talking to
4 2 b) here -- next Tuesday, we plan to make the first
5 award to Teichert. We did have a small award to
6 Teichert for consultation services. We did that a
7 couple months ago, or several months ago.

8 They've been involved in the construction
9 process as we've been planning to build the levee, but
10 next Tuesday we will make the first award to them for
11 foundation work and embankment work and start that
12 process.

13 You're going to be receiving an invite May 28
14 for a groundbreaking at the site. The groundbreaking
15 is at 10 o'clock that morning, will be a short
16 ceremony.

17 And we're really going to be focusing in on
18 the flood protection people that have been impacted
19 before in the area. So the focus will be on them, but
20 we want to say, you know, celebrate the beginning of
21 the levee work and make sure that everyone's had a
22 chance to participate, at least see the beginning of
23 the setback in place.

24 Item c), there is a need to give you an update
25 here on the Environmental Impact Statement process,

1 federal Corps process. This is the remaining
2 20 percent of the setback levee that we worked with you
3 in this regard as part of your permit that you gave us
4 that we came out and started work until we had 408
5 approval on the 404 permit issue.

6 The Corps is working with us on that EIS. We
7 have hopes that they will actually publish the draft
8 EIS within the next few weeks. It's been a little bit
9 longer than we thought it would take to get that draft
10 EIS out but we're hopeful that it will go out.

11 This becomes a critical path item for us on
12 our project. For us to be able to complete or have any
13 attempt to complete the majority of the levee work this
14 year, we really do need to complete the tie-ins before
15 the rainy season starts.

16 That means -- our contractor projects a
17 two-month time period that -- to work on the levee, to
18 do those tie-ins completely, so it's there, we put it
19 back in and everyone's safe again.

20 We can do the setback work after that, during
21 the rainy season -- or hopefully it will rain this
22 year. But if it's dry again, we'll continue to work to
23 build the backup levee, then in 2009 we'll tear down
24 the existing levee once the other levee is in, place
25 the backup levee.

1 But the timing has become critical for our
2 schedule for this year and for us to get on that place.
3 We need to have the federal permitting process done in
4 the beginning -- actually issued by the end of August
5 so we can start the early part of September.

6 We met with the Corps senior management
7 earlier this week and had a discussion about that. And
8 we'll see how that plays out, if we can accomplish that
9 or not. That will come up in future reports for you,
10 but that is the critical element for us to get past.

11 The -- moving to Item number 3 on the third
12 page, this is the -- where we continue to do updates on
13 the utility process. Sprint and AT&T still have not
14 put the markers. They have told us they will.

15 What I ended up doing in preparation for the
16 meeting is I did direct staff -- we're out in the field
17 working on the Feather River extensively, and all the
18 construction management work that's going out there
19 now -- to go ahead and put the markers in for them, and
20 we'll deal with them later on.

21 But we'll just go ahead and take that action,
22 put the markers in, and then we'll clear that up and
23 move on and then deal with Sprint and AT&T if there is
24 any cost associated with that.

25 Then on number 4, on the building permits

1 issue, we're still tracking this. As far as the areas
2 that we're impacting, you'll see there is a big zero
3 this reporting period.

4 And with that, that's the end of my report.
5 Are there any specific questions I can answer?

6 PRESIDENT CARTER: Any questions for Mr.
7 Brunner?

8 VICE-PRESIDENT HODGKINS: Have you seen the
9 administrative draft federal EIS?

10 MR. BRUNNER: Yes.

11 VICE-PRESIDENT HODGKINS: Are there issues
12 being raised in terms of growth inducement?

13 MR. BRUNNER: Growth inducement and cumulative
14 effects are really probably the major point of what is
15 taking so long. It's one of public notice and letting
16 people know on it. And the section has been rewritten
17 and rewritten and rewritten numerous times over the
18 last several months.

19 VICE-PRESIDENT HODGKINS: Thank you.

20 MR. BRUNNER: Thank you.

21 PRESIDENT CARTER: Are there any other
22 questions for Mr. Brunner? Thank you very much.

23 MR. BRUNNER: Thank you.

24 PRESIDENT CARTER: Ladies and gentlemen,
25 moving on to our Consent Calendar. As you recall, Item

1 7, we have removed Items 7B, D, F, and N from the
2 Consent Calendar. So the remaining items remain on the
3 Consent Calendar.

4 Does the Board have any questions?

5 BOARD MEMBER BURROUGHS: I have one question
6 for staff.

7 I was curious looking at all these permits,
8 some of them list them as drainpipes. And I was
9 wondering why there's -- I realize it has to do with
10 the amount of water flow, but between 36-inch diameter,
11 16, 15, and 12 for different permits.

12 I guess I was just wondering if any event that
13 there is a lot of water flowing, shouldn't we have
14 larger sized drains in diameter than 12-inch? If it's
15 for. . . .

16 PRESIDENT CARTER: Are you speaking of a
17 specific --

18 BOARD MEMBER BURROUGHS: Just looking at
19 all --

20 PRESIDENT CARTER: G?

21 BOARD MEMBER BURROUGHS: For instance, there
22 was a 12-inch diameter, then there was a 15-inch and a
23 16-inch. And I was wondering, shouldn't there be some
24 kind of consistent standards for drainpipes? Just a
25 question.

1 CHIEF ENGINEER HESTER: In general, the
2 applicant does the sizing of what is necessary to
3 perform that function. So staff would be more
4 concerned about the installation and whether it meets
5 the Title 23 standards of how they're going about it
6 than actually questioning how big that pipe needs to
7 be.

8 PRESIDENT CARTER: Okay.

9 BOARD MEMBER BURROUGHS: Thank you.

10 PRESIDENT CARTER: Mr. Hodgkins, you have a
11 question?

12 VICE-PRESIDENT HODGKINS: Can I raise my
13 question, I think, after we've gone through the Consent
14 Calendar so there is no question about it confusing any
15 of the items?

16 PRESIDENT CARTER: Absolutely. So we will
17 entertain a motion to approve the Consent Calendar,
18 Items A, C, E, G, H, I, J, K, L, M.

19 BOARD MEMBER BROWN: Mr. Chairman, I so move
20 we approve the Consent Calendar as modified.

21 PRESIDENT CARTER: Okay. Second?

22 VICE-PRESIDENT HODGKINS: Second.

23 PRESIDENT CARTER: We have a motion and a
24 second. Mr. Punia, would you call the roll, please.

25 EXECUTIVE OFFICER PUNIA: Board Member John

1 Brown?

2 BOARD MEMBER BROWN: Aye.

3 EXECUTIVE OFFICER PUNIA: Board Member Rose
4 Marie Burroughs?

5 BOARD MEMBER BURROUGHS: Aye.

6 EXECUTIVE OFFICER PUNIA: Board Member Butch
7 Hodgkins?

8 VICE-PRESIDENT HODGKINS: Aye.

9 EXECUTIVE OFFICER PUNIA: Board President Ben
10 Carter?

11 PRESIDENT CARTER: Aye. So motion carries
12 unanimously. Very good. Mr. Hodgkins, did you have a
13 comment?

14 VICE-PRESIDENT HODGKINS: Yeah, our standard
15 conditions, I think 20 is the condition that I'd like
16 to raise a question on. And the question is this:

17 You know, with the Corps updating standards
18 for maintenance we've got some situations where
19 encroachments are now having to be addressed and
20 removed because there are concerns about their impact
21 on maintaining the system. So my question is:

22 Does Condition 20 give the Board the authority
23 to require that a permitted encroachment be modified or
24 removed because a potential issue is subsequently
25 identified relating to impact of that encroachment on

1 maintenance? And if not, can we get it modified so
2 that it does in future?

3 So that -- I mean, those are -- that would be
4 perhaps a report back, not something we try and address
5 right now.

6 PRESIDENT CARTER: Okay. Staff understand the
7 question, the request?

8 CHIEF ENGINEER HESTER: Yes, I understand the
9 request, and I may contact you to clarify to make sure
10 that we're reporting back exactly what you're hoping to
11 hear from us.

12 VICE-PRESIDENT HODGKINS: Okay.

13 PRESIDENT CARTER: Great. Okay.

14 Ladies and gentlemen, at this time let us take
15 a 15-minute break, stretch your legs and return back
16 with Item number 8, Property Management.

17 (Recess)

18 PRESIDENT CARTER: Ladies and gentlemen, if I
19 could get you to take your seats we'll go ahead and
20 continue with our meeting. As you recall, before the
21 break we finished Item 7, our Consent Calendar. We're
22 moving on to Item 8, Property Management.

23 So at this time, we have Reclamation Board
24 lease number 2008-3-RB, Grazing use, Colusa County.

25 MR. PAULUS: Good morning. I'm Linus Paulus.

1 I'm Chief of the Department of Water Resources
2 Encroachment Permit and Property Management Section. A
3 portion of the work I'm responsible for involves real
4 property transactions and leases for Reclamation
5 Board-owned properties.

6 So this may be the first time you met me, so
7 good morning, President Carter, and other Members of
8 the Board.

9 I've been asked this morning to give you a
10 presentation about my understanding and the reasons for
11 my recommendation of the approval of the lease to Mr.
12 and Mrs. Basterrechea. I've prepared this
13 presentation, and hopefully it's fairly easy for you to
14 follow. If you have any questions, I'd be more than
15 happy to answer them at the end.

16 Okay. Long before I worked for DWR, we
17 awarded a lease in October of 1995 to Mr. And Mrs.
18 Basterrechea. It was a five-year lease at \$5.75 an
19 acre. It's my understanding that lease was awarded
20 through a public bid process.

21 This is the cover page of the lease, and you
22 should all have a handout, if you can't see the TV. It
23 should be fairly easy to follow.

24 The lease had several special provisions. You
25 should have received a packet with the proposed lease

1 I'm asking for approval for Jay to sign. And the
2 special provisions in the lease that you have in your
3 handout are slightly different.

4 I've added three clauses. Paragraphs 1, 4,
5 and 6 in the lease that you have are new clauses based
6 upon my conversations with Joel Farias at the Sutter
7 Maintenance Yard.

8 One of them, the first one, is just a
9 clarification that the primary use of the property is
10 flood control, and it has numbers in terms of
11 identifying who to call and times to get any livestock
12 off the property.

13 Paragraph number 4 specifies where temporary
14 fencing should be put in the new lease, and that's
15 because Sutter Maintenance Yard says fencing must be 10
16 feet off the toe of the levee, just for maintenance
17 purposes.

18 Paragraph 6 is something that I added which
19 would allow the tenants to extend the lease for a
20 period of five years based upon the renewed rental rate
21 and precise survey we conducted this summer.

22 Otherwise, the special reasons are all the
23 same. I just reviewed them for clarification purposes.

24 The original lease was 990 acres. It's shown
25 on this handout, attachment to the original lease. In

1 October of 1998, after three years on the original
2 lease, we, the Department of Water Resources, sent a
3 letter to the tenant informing them that the property
4 would not be available for the upcoming 1999 grazing
5 season. That was because it was going to be used for
6 project purposes.

7 And the letter actually doesn't indicate what
8 the purpose was, so I'm not clear on why it was removed
9 or unavailable at this time.

10 BOARD MEMBER BROWN: What kind of purpose?

11 MR. PAULUS: I'd have to read the letter.

12 PRESIDENT CARTER: It was when the Colusa Weir
13 was being cleared and cleaned out.

14 BOARD MEMBER BROWN: Okay.

15 MR. PAULUS: So the following spring after
16 informing them they couldn't use it in 1999, we sent
17 them a letter in March of 2000.

18 The letter basically indicated that Fish and
19 Game required us to stockpile a bunch of the material
20 and grasses and fence it off. That was approximately
21 100 acres that was removed from the original lease.

22 And I couldn't find an exhibit, but in terms
23 of talking with the Sutter Maintenance Yard, it's my
24 understanding that that 100 acres is in the northern
25 portion shown on this exhibit. Mr. Carter, I guess

1 you're familiar with the area, and you may know more
2 about that than I do actually. Okay.

3 June 2000, we issued a letter, Department of
4 Water Resources, basically stating that since we had
5 taken a year off the lease for project purposes we were
6 going to allow them one additional year at the lease
7 rate. So we basically extended the lease by one year
8 to expire October 31st, 2001.

9 In March 2001, the final year of the lease, we
10 sent a letter indicating we'd have to use 460 acres of
11 the property for the Sacramento River flood control
12 project Upper Sacramento Area Phase V Project.

13 And it's my understanding that they were going
14 to be removing borrow material for project purposes
15 from a large area of the lease, so we restricted the
16 amount of acreage that was available to the
17 Basterrecheas for that year.

18 This would be the 460 acres based upon the
19 400 -- 4,360 feet from the vegetative screen which is
20 on the side of the lease area. So the 460 acres plus
21 the previous 100 acres equals 560 acres removed from
22 the original lease.

23 March 2002, we sent another letter indicating
24 that the property was needed again for the same project
25 and that the available lease area was 230 acres. The

1 letter also contained a clause indicating that DWR
2 staff recommended extending the lease through 2002 due
3 to the disruptions caused by the project activities.
4 Basically, working out the issues without the need to
5 rebid on the lease. In December 2002, we sent them the
6 same exact letter indicating that the property would be
7 needed again for the same project and the leased area
8 was only 230 acres, and also extended for another year.

9 So we're all the way up through the 2003
10 grazing season based upon 1995 lease. The Exhibit A
11 that you have attached to the proposed lease is the
12 next slide. I just use it to show what is my
13 understanding, was the 230 acres, and I can walk you
14 through how I believe that is a valid number.

15 My main function is I'm a landing agent for
16 the Department, so one thing I do know is a section is
17 640 acres. So right now you're looking -- you can see
18 highlighted in yellow is Section 16, township 16 north
19 range 1 west, Mt. Diablo Meridian. And the lease area
20 bypasses parcel 22 which is in the lower half of the
21 box in red, so if you take the east half of Section 17
22 and the west half of Section 16, you would still have
23 approximately 640 acres.

24 And surveys were done many, many years ago,
25 and they vary by one or two, sometimes they're exactly

1 640 acres. So based on the assessor's plat map you can
2 subtract out all the other parcels within that area.
3 Parcel number 100 is a 17.5 acre parcel which is kind
4 of split by the line. I used my best guess from my
5 eye, and I put 12 and a half of it in that one section.
6 There are a few other APNs which fall into the other
7 section. They're highlighted in purple, I used my eyes
8 as 12.5 acres to that.

9 Given that, the total of the other APNs within
10 that area is 330 acres. That would mean that parcel 22
11 is 321 acres, plus or minus.

12 Now there are areas within the bypass which
13 are off limits for grazing. That's 300 feet to the
14 east of the bridge. And there is also some spoil areas
15 in between the levee and the property line. Those are
16 highlighted in blue. And if you assume that that area
17 in blue is approximately 90 acres, that means that the
18 area within the bypass available for grazing is 231
19 acres approximately.

20 In 2004, there was a bid opening for a renewal
21 of this lease. It's my understanding in conversations
22 with Mr. Basterrecheas and other people that they were
23 the only people to bid on that lease, and it was
24 awarded at \$6 an acre. However, that list was never
25 fully executed.

1 So what I'm requesting from the Board today is
2 to accept my recommendation to approve a five-year
3 grazing lease to the Basterrecheas based upon the bid
4 opening held in 2004, the five-year lease effective
5 from 2004 through the end of this grazing season of
6 October 31, 2008.

7 The reasons I'm recommending that is they have
8 been using the leased area since 2004. They are the
9 only bidder. And they are up to date on the rental
10 payments. We have collected the rent for this year
11 already. I have a valid certificate of insurance for
12 the term of the lease on file.

13 Sutter Maintenance Yard is also recommending
14 approval of this lease. And their recommended approval
15 is based upon the beneficial factors of having a tenant
16 out there which include a 24-hour sheepherder which
17 prevents trespassing and other -- prevents people from
18 accessing the site that we don't want there. The sheep
19 help remove vegetation from the bypass and also derive
20 a benefit to the State.

21 What I will do from this point on is I will
22 have a rental rate update performed by our staff
23 appraisers, and I will send a survey crew out to
24 determine, you know, what is the actual available
25 acreage for lease after all the project activities have

1 occurred to date. And then based upon revised rental
2 rate and the precise surveyed acres determined, we
3 would ask -- the Basterrecheas will have the
4 opportunity to accept a renewed lease rate -- or renew
5 the lease at that new rate and new acreage.

6 And if they choose not to, it will be put out
7 to public bid again, and that public bid would happen
8 this winter with this lease taking effect next
9 April 1st.

10 So that is the reason for my recommendation,
11 and I'm happy to answer your questions.

12 PRESIDENT CARTER: Are there any questions for
13 Mr. Paulus?

14 BOARD MEMBER BURROUGHS: When you put it out
15 for open bid, how does that information get out?

16 MR. PAULUS: We would advertise it in local
17 newspapers. We would also be aware of any potential
18 parties that may be interested in the area. You know,
19 you talk to neighbors, whatever, see if -- we have
20 feelers. Some properties get requests all the time;
21 others, we've had the same tenant for 20 years.

22 So our requirement is to advertise in the
23 local publications.

24 BOARD MEMBER BURROUGHS: Do you have anything
25 on the website?

1 MR. PAULUS: No, but we could put it on the
2 website. I think the only thing on the website is the
3 action item today.

4 BOARD MEMBER BURROUGHS: Well, I, for one, am
5 just very positive about having grazing. Gazing is a
6 good tool to use for floodways. Thank you.

7 MR. PAULUS: Thank you.

8 PRESIDENT CARTER: Mr. Hodgkins, did you have
9 a question? I have a couple questions. I was
10 wondering with regard to the hundred acres that were
11 removed in 2000, 2001 and then planted to native
12 grasses and fenced: Are those native grasses
13 established, and would it not make sense to graze those
14 as well as an appropriate management practice?

15 MR. PAULUS: That's a very good question. And
16 what I need to do when I coordinate this meeting with
17 the surveyors is I have to do my research to determine
18 if that mitigation would meet that or if grazing would
19 be in conflict with the mitigation prescribed for that
20 project.

21 PRESIDENT CARTER: Okay. And then what is the
22 reason that we continue to limit -- I mean the bypass
23 opens up. There's a weir, and there is a narrow
24 channel, some training levees, and then it opens up.

25 Why are we not grazing that, what was it, 450

1 acres or so where it widens up now?

2 MR. PAULUS: That's the reason that we will be
3 surveying the available acreage and adjusting the
4 acreage after this grazing season.

5 The last number I had to work with was 230
6 acres. I believe that the available acres is probably
7 more than 230, but since 2004 the tenants have been
8 restricted to that 230 acres.

9 So the grazing season has already started, and
10 it's kind of late in the game to go out and adjust it.
11 And our surveyors have been very busy and wouldn't be
12 able to get the appraisal rate to take care of it for
13 this year which is why I'm asking for approval of the
14 lease expiring this October so we can get all those
15 other issues corrected.

16 PRESIDENT CARTER: I'm talking about this 460
17 acres where it widens up that was removed back in 2001,
18 I think it is.

19 Why aren't we grazing that, all part of the
20 bypass? March 15, 2001, approximately 460 acres was
21 set aside for the flood control project. Are we done
22 with that project? Can we graze that now?

23 MR. PAULUS: I believe the project is done. I
24 don't know if the ground at this time is actually
25 suitable for grazing. I would assume it is, but I

1 believe that the lease when we renew next year will
2 include that acreage.

3 PRESIDENT CARTER: Okay. Mr. Swanson, are we
4 done with that project?

5 MR. SWANSON: I really don't know. I think it
6 was associated with a Corps of Engineers project,
7 possibly the valley. I have not had any direct
8 involvement with it. I would suggest, though, that if
9 it is done that the grazing lease be opened up to cover
10 that area. We would be very supportive of that.

11 PRESIDENT CARTER: Okay. And the area
12 downstream from the red-hatched area here that has
13 got -- it's, according to the key, the leased area plus
14 or minus 400 acres, that is where the vegetation
15 screens begin in the weir to allow sediment to fall out
16 and whatnot. Why aren't we grazing that area.

17 MR. PAULUS: It's my understanding the
18 darkened area on the sheet you're looking at is leased,
19 but that lease is with the Department of Fish and Game,
20 and that lease prohibits livestock grazing.

21 And I have documentation regarding that, but I
22 didn't put that in the presentation because that was
23 not part of the requested action.

24 But in terms of my research and reviewing the
25 file, there is correspondence from Fish and Game

1 regarding the hunting lease in that area.

2 PRESIDENT CARTER: So it's a hunting lease as
3 a land use?

4 MR. PAULUS: And in conflict with grazing,
5 correct.

6 BOARD MEMBER BURROUGHS: Not necessarily.

7 PRESIDENT CARTER: I don't know that I
8 necessarily agree.

9 What I would ask is that we investigate that.
10 That used to be grazed 15 years ago. That was grazed.
11 And it doesn't do us any good to keep the area just
12 downstream of the bypass open if we've got a huge
13 vegetation block downstream of it and can't really
14 effectively get through to the basin and the bypass,
15 the Sutter Bypass, if that's all clogged.

16 MR. PAULUS: My mind is churning right now,
17 and I'm trying to remember everything I've read in
18 preparation for this meeting; and I believe that you
19 may be correct. It could be grazed.

20 There are some overlapping dates that the
21 lease would have to identify where that area would be
22 unavailable for grazing. I think that date is
23 September 1st instead of October 31st because of Fish
24 and Game's activities.

25 PRESIDENT CARTER: Okay. Can we perhaps get

1 with the Fish and Game folks and try and coordinate
2 both public uses of that in terms of trying to help us
3 manage some of the vegetation that is not in conflict
4 with the hunting lease in terms of both timing as well
5 as vegetation management?

6 MR. PAULUS: Yes, we can do that. I'm -- all
7 I'm asking for today is approval for grazing of the 203
8 acres.

9 And then over the summer I can address all
10 those issues, and when the lease is put out to bid
11 again we can identify all those issues and include the
12 additional acreage past the vegetative screen with a
13 clause indicating dates the livestock would have to be
14 out by then.

15 PRESIDENT CARTER: Okay. The other -- the
16 final question I have is there were some limitations on
17 the lease with regard to animal stocking units.

18 I think they were talking about -- I can't
19 remember if it depended on whether it was normal
20 weather conditions or -- here it is. Restriction of
21 Use, Item 10 under the lease, page 3 of 9.

22 It says that the lessee may graze a maximum of
23 150 livestock during normal weather years and will be
24 restricted to 100 livestock during drought conditions.

25 My understanding is that the tenant grazes

1 both sheep as well cattle occasionally. Are we talking
2 about standard animal units here? Because there is a
3 difference in rating between cattle and sheep and
4 goats.

5 What are we talking about here? Are we
6 talking head, animal grazing units?

7 MR. PAULUS: Well, I copied that provision out
8 of the initial lease. I'm not a rancher, but the way I
9 would read it is it doesn't specify sheep or cattle,
10 and it says livestock. So I would imagine that's one
11 per animal, be it a sheep or cow.

12 PRESIDENT CARTER: Okay.

13 MR. PAULUS: Or a cow.

14 PRESIDENT CARTER: Very good. Could I ask the
15 current lessee to come to the podium? Are they here
16 today?

17 MR. PAULUS: Yes, they are.

18 PRESIDENT CARTER: Okay.

19 BOARD MEMBER BROWN: Aren't the units, grazing
20 units, usually cattle?

21 PRESIDENT CARTER: In terms of cattle?

22 BOARD MEMBER BROWN: Yes.

23 PRESIDENT CARTER: Yes, but --

24 BOARD MEMBER BROWN: I don't know how many
25 sheep.

1 PRESIDENT CARTER: Yeah. It's a function of
2 what kind -- it's a function of time, duration, as well
3 as species. So.

4 Mr. Basterrechea? Good morning. Thank you
5 for coming. My question to you is: With the
6 restrictions in terms of the animal units that are
7 being allowed, is this something that works for you in
8 terms of -- I understand 150 sheep is not very many
9 sheep.

10 BOARD MEMBER BURROUGHS: Would you like more?

11 PRESIDENT CARTER: And if you're grazing 150
12 sheep on these approximately 231 acres, how much feed
13 is out there? How long can you be out there?

14 MR. BASTERRECHEA: Two or three months.

15 PRESIDENT CARTER: Two or three months. So
16 essentially the summer season.

17 MR. BASTERRECHEA: On this too, they already
18 was 150 cows, no? I hear -- I never got any contract
19 from the district.

20 PRESIDENT CARTER: Your understanding was the
21 lease was for 150 cows.

22 MR. BASTERRECHEA: Yeah, but they count five
23 sheep.

24 PRESIDENT CARTER: For every cow.

25 MR. BASTERRECHEA: One cow and five sheep.

1 BOARD MEMBER BROWN: That sounds better.

2 PRESIDENT CARTER: That sounds about right.

3 Okay.

4 MR. BASTERRECHEA: They got that from the
5 Forrest Service.

6 BOARD MEMBER BURROUGHS: That would be more
7 like 500.

8 PRESIDENT CARTER: Yeah, more like 625 head of
9 sheep. Okay.

10 And Mr. Paulus, if we're able to add onto the
11 acreage of the lease, then this restriction would be
12 modified in terms of the limitation of the number of
13 head, since there is going to be more area to graze?

14 BOARD MEMBER BURROUGHS: You would like to
15 have more if it's available, right?

16 MR. BASTERRECHEA: Yes.

17 PRESIDENT CARTER: Okay. Mr. Paulus, is that
18 what we would be doing?

19 MR. PAULUS: What I would do -- I apologize
20 for maybe not being as prepared as I should have been.
21 I took the special provisions out of the initial lease
22 and copied them to be able to get you the proposed new
23 lease for review.

24 BOARD MEMBER BROWN: If you use animal units,
25 I think it will work anyway, and animal units are based

1 upon the cattle.

2 MR. PAULUS: I would have to actually use the
3 UC Davis extension and describe to them the county and
4 the area and maybe get a better grip on how many animal
5 units or pair of cattle should be allowed per acre; and
6 once we know the exact acreage after the survey, we can
7 put that specifically into the lease and also put a
8 conversion factor if there are sheep instead.

9 PRESIDENT CARTER: Yes.

10 BOARD MEMBER BURROUGHS: I'd like to see it
11 stay as livestock so it can be either cattle or sheep
12 for the lease.

13 PRESIDENT CARTER: Yeah, there should be --
14 it's appropriate to allow some flexibility there. And
15 the UC Cooperative Extension has guidelines in terms of
16 whether it's irrigated or dryland pasture and what
17 animal grazing density is appropriate for those
18 specific uses. So they can give you some good
19 guidelines.

20 Also, as the applicant stated, the Forest
21 Service has guidelines regarding livestock density. So
22 those are two sources. Okay.

23 Those are all the questions I have. Sorry for
24 taking so much time.

25 MR. PAULUS: That's all right.

1 PRESIDENT CARTER: Any other questions? Okay.

2 What's the pleasure of the Board?

3 BOARD MEMBER BROWN: Are you ready for a
4 motion?

5 PRESIDENT CARTER: I'm ready for a motion.

6 BOARD MEMBER BROWN: I'll so move,
7 Mr. Chairman.

8 PRESIDENT CARTER: Okay. We have a motion to
9 approve the property lease -- I'm sorry what's the
10 number -- 2008-3-RB in Colusa County. Is there a
11 second?

12 BOARD MEMBER BURROUGHS: I'll second that.

13 PRESIDENT CARTER: We have a motion and
14 second. Any further discussion? Mr. Punia, would you
15 call the roll please.

16 EXECUTIVE OFFICER PUNIA: Board Member John
17 Brown?

18 BOARD MEMBER BROWN: Aye.

19 EXECUTIVE OFFICER PUNIA: Board Member Rose
20 Marie Burroughs?

21 BOARD MEMBER BURROUGHS: Aye.

22 EXECUTIVE OFFICER PUNIA: Board Member Butch
23 Hodgkins?

24 VICE-PRESIDENT HODGKINS: Aye.

25 EXECUTIVE OFFICER PUNIA: Board President Ben

1 Carter?

2 PRESIDENT CARTER: Aye.

3 MR. PAULUS: Thank you.

4 PRESIDENT CARTER: Thank you.

5 BOARD MEMBER BURROUGHS: Could you leave a
6 business card for me?

7 MR. PAULUS: I'll go upstairs and bring some
8 down.

9 PRESIDENT CARTER: Mr. Hodgkins?

10 VICE-PRESIDENT HODGKINS: I think I'd like to
11 be sure that the gentleman understands that it may feel
12 like we're picking on you, and you shouldn't feel that
13 way. Okay?

14 I think grazing is something that this Board
15 believes is an important part of helping maintain the
16 system, and so this is going to come on up for a new
17 lease, it would sound like, in 2009.

18 MR. PAULUS: For next year.

19 VICE-PRESIDENT HODGKINS: Yeah.

20 MR. PAULUS: I'll be back with the same lease,
21 and then you guys can hold me to the fire to make the
22 changes we talked about.

23 VICE-PRESIDENT HODGKINS: And that's, I guess,
24 what I was going to say is I appreciate you moving it
25 forward and getting it finally taken care of. And try

1 and come back, it's worth a little bit of investment of
2 your time to better understand how you might manage the
3 agricultural grazing leases.

4 MR. PAULUS: Okay. And I'll be back here next
5 month for a lease. You'll be seeing a lot of me.

6 VICE-PRESIDENT HODGKINS: Good.

7 PRESIDENT CARTER: Thank you.

8 MR. PAULUS: You're welcome.

9 PRESIDENT CARTER: Moving on to Item 9,
10 Kaweah. Consider adoption of Resolution 08-06,
11 Approving Conveyance of Excess Mitigation land Davis
12 Ranch mitigation site to Kaweah Delta Water
13 Conservation District, acceptance of easements by
14 reservation for the reservoir perimeter lands, and
15 delegation of authority to the Executive Officer to
16 exercise the necessary documents to implement the above
17 two transactions.

18 Ms. Finch, good morning, welcome.

19 MS. FINCH: Good morning, President Carter,
20 Members of the Board.

21 This morning, like you mentioned, the request
22 is to approve some real estate transactions which are
23 part of the Kaweah Delta Water Conservation District
24 terminus dam project.

25 And at this point, actually, I'd like to turn

1 it over to some project representatives because they
2 have a PowerPoint that will give you the history of the
3 project. And one person actually has some history with
4 DWR on the board. I'll let him explain it himself, if
5 you'd like to, Jim Stadler.

6 Then also right there in the blue is Zachary
7 Smith, the Kaweah attorney who is here today as well.
8 So I'll turn this portion over to them.

9 MR. STADLER: Thank you very much. My name is
10 Jim Stadler. Good morning to the Board. About 1968, I
11 was a member of the Board staff. Since then, I'm now
12 in private consulting work, working for the Kaweah
13 Delta Water Conservation District.

14 We have a project which is a joint project
15 with the Corps, the State, the Reclamation Board and
16 Kaweah Delta Water Conservation District. I'd like to
17 make a little presentation just who we are and where we
18 are.

19 I only have about 13 slides here, but I did
20 want to point out that there's three items on the
21 agenda.

22 Number one is conveyed excess mitigation land.
23 That is property that's off the site and not around the
24 perimeter lake.

25 Number two is acceptance of easements and

1 warranty deeds for the perimeter land. Those are two
2 distinct items.

3 Okay then. The next one. This is where we
4 are. You notice the top, way down in the bottom left
5 corner of the map of the state of California. We're
6 about in the middle of the state, halfway between
7 Bakersfield and Visalia.

8 At the upper top you'll see the city of
9 Visalia and the location of the -- there's a -- they
10 call location of site, that's the Davis Ranch we're
11 talking about.

12 South of that is Lake Kaweah. The Davis Ranch
13 is a 5,000-acre ranch north of the lake. Okay.

14 Here's -- this is a map, we imposed the Davis
15 Ranch site. This is what I would call the post site
16 after we tried to get the excess lands removed from the
17 original Davis Ranch.

18 The Davis Ranch was purchased as part of the
19 mitigation requirement. The mitigation requirement was
20 for several acres -- for 506 less than the Davis Ranch.
21 But the Davis Ranch was available for sale, it was
22 purchased, it was a real nice area, and it was
23 acceptable for mitigation for both the Corps and
24 Department of Water Resources.

25 This is kind of like the one before, but what

1 I wanted to show you was the relationship to the lake.
2 Remember the lake enlargement project was 120 acres of
3 land that were flooding. We had to provide the Davis
4 Ranch, which was about 5,000 acres.

5 And over on the left we had the -- I
6 superimposed the Tulare Lake mitigation site on the
7 map, although it's not at this location. It's about
8 40 miles to the southwest of that, and it's about
9 1500 acres.

10 Just below that superimposed is another
11 35 acres called the riparian site. Because we took
12 some riparian habitat, we had to provide 35 acres of
13 additional mitigation site.

14 Then down there to the southeast of that is
15 the endangered species site which has to do with the
16 beetle.

17 This is really what we did. These are fuse
18 gates. There are six of them there. We raised the
19 lake elevation 21 feet. These are the biggest fuse
20 gates in the world today. Couple years from now,
21 there'll be some bigger ones in Austria -- or
22 Australia. These are concrete.

23 When the water gets over 19 feet over the top
24 of these, these will tip and go downstream, which
25 that's an extreme case. Nineteen feet over the top of

1 the fuse gates would be about six or seven feet below
2 the top of that bridge.

3 What you see here is flow going over the top
4 of the fuse gates. This was June 6, 2006. Water going
5 over the top about one inch.

6 This is a view we like to take because it
7 shows with the one inch going over the top, very
8 uniform flow, this is only going over the top for about
9 a day.

10 One of the other items we had to do was build
11 a bridge. This is Horse Creek Bridge. If you notice
12 on the left, what you see there is the old location of
13 the bridge. It's very hard to identify where the old
14 bridge was. It was removed and rock put in place, and
15 it was a very, very acceptable program for we improved
16 the highway safety of this area.

17 But this was part of the project. One of the
18 merits of the Lake Kaweah project, the State
19 participated in 62 percent of that cost, and we paid
20 the rest.

21 I have to show this particular slide because
22 the photographer that was out there is one of our
23 engineers and he was very proud of the fact that he got
24 the reflections in.

25 But over on the right is a dike that was built

1 at the upper end of the lake to protect the Best
2 Western Motel. It's called a dike because, as I
3 understand it, a dike is different than a levee because
4 a levee has certain standards that you're all aware of.
5 A dike has more engineering standards which is kind of
6 like protecting the dam. This was to protect about a
7 \$3 million hotel. Okay.

8 This is the area we're talking about, the
9 Davis Ranch. The outline in probably green that you
10 would see right there is what I would call the post
11 Davis Ranch site.

12 We have two sites that we would call excess
13 acres to the site. One is 106 acres and the other is
14 the Section 8 which is 400 acres. The Corps of
15 Engineers in their design manual has excluded those
16 from the design manual and is not part of the
17 mitigation site.

18 I'd like to explain the excess acres, 106,
19 right below that, you'll see a little area there. That
20 is land still owned by the federal government, the
21 Bureau of Land Management. It was never partitioned
22 out or patented out to any landowners.

23 We are in the process of trying to obtain that
24 land as we have proposed a habitat conservation plan
25 which would include the excess lands plus that little

1 piece of property.

2 If you notice, one of the great things way
3 over on the left is what we call Dry Creek Road.
4 Access to the mitigation site is over a very rough,
5 unpaved road. If you bring cattle in to the site, you
6 have to unload them there at the road and then drive
7 them across the road to get to the site. According to
8 the operation manual -- operation maintenance manual,
9 this site has to be grazed basically for fire
10 protection.

11 When you get down to how much we're going to
12 make an adjustment for, we're talking about \$131,258.
13 This would be money that we would credit back to the
14 Department of Water Resources. And if you have any
15 details about the compilation, I'd be happy to go
16 through them for you.

17 This is the second item on the agency here is
18 the warranty deeds. Authorizing this project, the
19 local people have to pay the operation and maintenance
20 costs of all the new lands of the perimeter. The new
21 lands of the perimeter are the ones that are shown in
22 yellow.

23 As it turned out, many years ago we felt it
24 would be very difficult for the local people to operate
25 and maintain those little parcels of land, which is

1 about 50 or 56, so Congress authorized the Corps to
2 accept these lands as part of the deed.

3 So we are suggesting we deed the land that we
4 had purchased as part of the project back to the Corps.
5 The local people -- which is us -- are required to
6 operate and maintain those lands. So every year we
7 have a bill that comes out, about \$56,000 plus or
8 minus, that we have to pay them to police these lands
9 plus to operate and maintenance the fuse gates.

10 This is the last one that shows that prior to
11 this new Board is the all parcels that are in gray up
12 above that had already been approved and deeded to the
13 Corps. The three of them that are yellow are the ones
14 that are the subject of this particular resolution.

15 Right below that, we have that one more that's
16 coming down the road in a little bit. I think we're
17 about six months away on that one.

18 And I'm prepared to answer any questions that
19 might come up.

20 PRESIDENT CARTER: Is raising the dam going to
21 keep Visalia and Mill Creek dry?

22 MR. STADLER: You know, we get -- we went from
23 about 40-year protection to 59 percent protection so
24 it's -- year protection. It will keep it dry a little
25 bit. But when the fuse gates get over the top, there's

1 still a lot of water coming down. It will give us
2 incidental flood protection, but not 100-year
3 protection.

4 PRESIDENT CARTER: How many year protection
5 will it give?

6 MR. STADLER: I think it is 79.

7 BOARD MEMBER BROWN: It goes in the St. Johns
8 River too, doesn't it?

9 MR. STADLER: Most of the flow of the history
10 of that, the major, major discharges would go down to
11 St. Johns; and then the downstream people would put
12 pumps, and they would pump it into the Friant-Kern
13 Canal, then the water would eventually end up in the
14 City of Los Angeles, down the Friant-Kern Canal to the
15 Kern River to the California Aqueduct and down to Los
16 Angeles.

17 At one time that I was involved in the
18 pumping, we were out of the -- both rivers, the Tule
19 River and the St. Johns, we were pumping enough water
20 to supply the entire demands of the City of Los
21 Angeles.

22 BOARD MEMBER BROWN: Around 1955?

23 MR. STADLER: No, that was about '83, about
24 1983. Unusual year.

25 BOARD MEMBER BROWN: So was '55.

1 MR. STADLER: Well, '55, yes. It was a very
2 unusual year. But the dam was completed 1962.

3 BOARD MEMBER BROWN: Okay.

4 VICE-PRESIDENT HODGKINS: Can you help me
5 understand not how you arrived at the value of the land
6 but how accounts are being summed up here between the
7 State and the Water District?

8 That's my question. I don't even know where
9 to start for sure.

10 MR. STADLER: Talking about the total account
11 or the operation/maintenance account?

12 The total account, you know, the local people
13 or the nonfederal sponsors are supposed to pay the land
14 easements and rights of way.

15 VICE-PRESIDENT HODGKINS: Correct.

16 MR. STADLER: So it turns out that basically
17 the State pays 62 percent of that, and we pay the rest.
18 Right now, some of the land that was purchased, the
19 Department of Water Resources paid directly their share
20 into escrow.

21 Somewhere along the line, they kind of ran
22 into budget problems, so we furnished the money for the
23 land easements and rights of way into the escrow.

24 In addition to that, the administrative cost
25 which is the survey cost, the operational cost, court

1 cost, and everything, was paid mostly by the local
2 people.

3 So as time goes on, we have set our crediting
4 packages through the Corps -- we have ten packages that
5 have been sent and have been approved. We have sent
6 those to the Department of Water Resources, and they
7 have paid their share of those crediting packages.

8 Right now, we are going to be submitting
9 credit package number 11. At this point in time, the
10 State probably owes us -- let's see; I'm estimating --
11 \$200,000.

12 So we're crediting, this will be a crediting
13 back against that particular that we owe. And then
14 also we have this operation and maintenance agreement.
15 We owe the State about \$84,000 on that. That will be
16 part of the crediting that will go back to the State.

17 VICE-PRESIDENT HODGKINS: So in effect, the
18 State is going to receive not a payment but a credit
19 against other money they owe you?

20 MR. STADLER: Yes, that's correct.

21 VICE-PRESIDENT HODGKINS: In the amount of the
22 value of the land as you've shown it here.

23 MR. STADLER: That's what we're suggesting,
24 yes.

25 VICE-PRESIDENT HODGKINS: Thank you. Thank

1 you.

2 PRESIDENT CARTER: Any other questions?

3 MS. FINCH: Perhaps at this point I could give
4 my portion of the presentation. That might clarify
5 some of the questions you're having; and if it doesn't,
6 then Mr. Stadler can come back or Mr. Smith, their
7 attorney, or I could answer the remaining questions, if
8 that's all right with the Board.

9 PRESIDENT CARTER: That's fine. Regrettably,
10 this is new material for us this moment, and so we
11 haven't had a chance to really digest everything. It's
12 a little bit complicated.

13 MS. FINCH: It is, it is. And that's
14 understandable. And I apologize for the lateness.
15 When we're prioritizing the workload what -- what I
16 consider is more important is what is pending for the
17 current construction season.

18 And this is a real estate transaction which
19 we're attempting to deal with in a timely manner, but
20 the priority is the items with the construction
21 deadlines.

22 So as he said, we're focusing on these real
23 estate transactions today which is a small part of the
24 much bigger picture that Mr. Stadler was going into.

25 And today we're dealing with issues regarding

1 the Davis Ranch and those perimeter lands where when
2 they built the dam, it expanded the dam. And so it's
3 an issue with the Corps needing the deeds to that extra
4 land that will now be submerged during the high water
5 times.

6 And, you know, I'll reiterate what he said,
7 that the first request is that we quitclaim our
8 interest in Davis Ranch to Kaweah, and what we will
9 receive back is a credit for what we have paid.
10 Because we have paid -- we, the State Board, has paid a
11 70 percent interest in the Davis Ranch.

12 And what is part of the complication is that
13 the State has not paid 70 percent of other portions of
14 this project, so there's a final accounting going on
15 where they may have a credit, we may have a credit --
16 we have to value the land.

17 So that's what makes it complicated, but I am
18 attempting to focus on these two transactions today.

19 And so first would be the Davis Ranch. And as
20 Mr. Stadler mentioned, Kaweah was proactive and went
21 out and purchased the land ahead of time at the
22 beginning stages of the project. And the State did
23 come up and contribute the 70 percent cost share.

24 And then at one point, the Corps did realize
25 that it didn't need all the land for mitigation. There

1 was 506 acres excessive mitigation land. So Kaweah
2 suggested that they purchase the land and that they
3 could use it for future mitigation. And the State is
4 fine with that, and so there's a negotiation of valuing
5 the current price.

6 And what the current proposal is that with the
7 value that Mr. Stadler showed they would purchase the
8 land -- well, the State would quitclaim its interest in
9 the land and receive a credit against all the other
10 moneys owed for the other 70 percent share in the final
11 accounting, the price of the value of the land plus any
12 income from rent during a period of time where the
13 State had a right to rental income.

14 So those two amounts in this process would be
15 credited towards what we owe Kaweah for the overall
16 project.

17 BOARD MEMBER BURROUGHS: Excuse me. Before
18 you continue, could you -- when you say we, you are
19 referring to the State. But could you distinguish
20 between DWR and our Flood Protection Board?

21 MS. FINCH: Right. And it's the State acting
22 by and through the Board.

23 So some people, as you know, consider DWR and
24 the Board one and the same, especially people who
25 aren't aware of the recent changes. So I think people

1 who aren't familiar with the process may think it's
2 DWR, may call it the State, may call it the Board.

3 And I'm referring to our side of it as "we."

4 I can, if it's clearer, refer to it as the State or the
5 Board because it's both.

6 BOARD MEMBER BURROUGHS: For me, I would
7 prefer a distinction in the terminology.

8 MS. FINCH: Okay. I'll use "Board" which
9 means the State acting through the Board. So when the
10 Board fulfills its 70 percent cost share obligation,
11 it's the State working by and through the Board. I'll
12 start saying Board.

13 BOARD MEMBER BURROUGHS: Okay. Before you
14 continue on, I have another question so I can
15 understand as we can through the process.

16 Currently, the Board owns land under the Board
17 name, and DWR owns -- or oversees property under DWR;
18 is that correct?

19 MS. FINCH: You mean in general principal?

20 BOARD MEMBER BURROUGHS: In general principal,
21 yes.

22 MS. FINCH: The Board holds titles to land,
23 yes. And that DWR -- for example, the Board may hold
24 title for land, and DWR maintenance will come in and
25 maintain it. Is that correct?

1 EXECUTIVE OFFICER PUNIA: Maybe I can -- Jay
2 Punia.

3 Answering Board Member Rose Marie's question,
4 the lands are held for the Sacramento-San Joaquin
5 Drainage District's name. And the Board is the
6 nonfederal sponsor of the project, but the project is
7 administered by the DWR on the behalf of the Board.

8 BOARD MEMBER BURROUGHS: Okay. That helps.
9 Thank you very much.

10 MS. FINCH: And that is a good clarification,
11 that also the Sacramento-San Joaquin Drainage District
12 acts by and through the Board.

13 BOARD MEMBER BURROUGHS: Okay. Because
14 earlier in the presentation, a statement was made that
15 the land would go to DWR. So I want to clarify exactly
16 who would be holding the title of this quitclaim.

17 MS. FINCH: Actually, that is a Kaweah Delta
18 Water Conservation District. And actually, that is
19 another issue that is not before the Board today about
20 the title to the Davis Ranch.

21 But today's action would allow the Board to
22 quitclaim its current interest in title to the Davis
23 Ranch, so any -- and quitclaim is any interest we have,
24 we give to you, whatever it is today. So that -- and
25 then what we receive back is a credit for the money

1 that we have contributed to the land for the purchase
2 price, the 70 percent.

3 DEPUTY ATTORNEY GENERAL CAHILL: But only as
4 to the excess land.

5 MS. FINCH: 506 acres, yes. Because --
6 correct, the 506 excess acres of the Davis Ranch which
7 are not part of the mitigation. The other 4,300 acres
8 are mitigation land.

9 BOARD MEMBER BROWN: Question. Is the Board's
10 future obligation equal to or greater than the credit
11 that we're going to be receiving here on this project?

12 MS. FINCH: The financial obligation?

13 BOARD MEMBER BROWN: Yes.

14 MS. FINCH: What we owe? It's greater.

15 BOARD MEMBER BROWN: How much?

16 MS. FINCH: I don't know. I think the final
17 accounting is still being sorted.

18 BOARD MEMBER BROWN: Give me magnitudes of
19 what we're talking about. What's the credit again?

20 MS. FINCH: For this, I think 130,000.

21 BOARD MEMBER BROWN: 130,000. Okay. What's
22 the magnitude of our future obligations?

23 MR. STADLER: That question comes up all the
24 time. The local people, which is us, we have
25 maintained cost records that are up to date on a daily

1 basis. We can give you the amount of money we've spent
2 to the nearest \$10.

3 The State over the long has just given us
4 estimates up to a certain point of time of how much
5 they have spent. It was about three years ago they
6 stopped giving it to us. We have never gotten any
7 further update from them.

8 And I have made some estimates of how much
9 that would be cost, what we thought would be the
10 reasonable amount of money they had. The Corps in
11 addition to that has never given us a real final
12 accounting either.

13 So our estimate is just based on what I think
14 the value would be, I think right now is that when we
15 get all done with that, the State's going to owe us
16 about \$100,000. It's getting awful close.

17 MS. FINCH: Well, for the overall project.
18 For the --

19 MR. STADLER: Yeah, for the overall project, I
20 think, will be about \$100,000 or \$200,000. Depending
21 on how much the State comes through with their
22 estimated cost.

23 BOARD MEMBER BROWN: Well, the question or
24 concern is that if we have \$130,000 credit and our
25 obligation remains 100,000, how are we going to get the

1 other 30,000?

2 MR. STADLER: Well, let's go back. We do owe
3 \$84,000 for the -- your portion of the operation and
4 maintenance agreement which is the lease arrangements.
5 We had made a lease arrangement with the State with a
6 private entity. And we keep track of the cost. We
7 have a lease payment less expenses. That comes to what
8 the State share, which is 50 percent, is of \$84,000.
9 So we owe the State \$84,000 on the O&M agreement.

10 BOARD MEMBER BROWN: So 84,000 you owe, and we
11 have \$130,000 credit?

12 MR. STADLER: That's correct, but we have not
13 settled up on it yet. So the estimate that I was
14 giving, if I'm estimating, after we settle up on it
15 that maybe the State will owe us 100,000 plus or minus.

16 VICE-PRESIDENT HODGKINS: I think that there
17 are two accounts here. Correct me if I'm wrong. There
18 is a capital account, which is the cost of the project,
19 where when it gets settled up the estimate is we're
20 going to owe them 100,000.

21 There is also the State's share of operation
22 and maintenance, which is a little unusual, but we'll
23 assume that that's what it is which is an additional
24 84,000.

25 So in total, I think what he's saying -- and

1 if this is not true, correct me because I've been
2 misunderstanding; this is from Kaweah's standpoint --
3 184,000 which is in excess of the 130,000 credit?

4 MR. STADLER: Well, 84,000 would be the
5 overhead, yes.

6 Let's go back to that. I think when I get all
7 my accounting done, the State's going to owe us
8 \$200,000 depending on what the State comes up with
9 their final charges. And I'm just estimating based on
10 my work. I would like to get the State cost up to
11 date. It would help.

12 VICE-PRESIDENT HODGKINS: So would we.

13 MR. STADLER: What we really need is we want
14 to get this taken care of as soon as possible. We're
15 trying to get the habitat conservation plan worked out
16 with the environmental people, and this is a program we
17 have because we have to do a lot of channel maintenance
18 in the Visalia area.

19 So this is our trade-off, we would provide
20 this habitat conservation area in lieu of going and
21 taking some material out of the creeks. So it's very,
22 very important for us to get this taken care of. And
23 the land will be used as a conservation easement.
24 There's some type of term for that.

25 VICE-PRESIDENT HODGKINS: But you work for

1 Kaweah now.

2 MR. STADLER: Kaweah Delta Water Conservation
3 District.

4 VICE-PRESIDENT HODGKINS: Nancy, is there
5 anybody from the Department of Water Resources who has
6 some idea as to what the State owes Kaweah?

7 MS. FINCH: I was not given that information
8 at this time. I think it's overall -- and let me give
9 you a different perspective of what's gone on.

10 The Board was approached by Kaweah, after it
11 was determined by the Corps in 2006 that these 506
12 acres were not needed by the Corps, and said to Board
13 staff we have this excess mitigation; we have an idea
14 how to take care of this where we want the land; we'll
15 give you credit against this final accounting.

16 When I was going through the documents, there
17 was this concept of the final accounting is still under
18 way, and this confusion is part of that.

19 But they did approach us to ask for these two
20 slices which can be separated and incorporated into the
21 final accounting be taken care of in this way at this
22 time for their interest which is flood control
23 interest.

24 VICE-PRESIDENT HODGKINS: I want to ask you,
25 suppose when this is all said and done it ends up the

1 State only owes a total, O&M and capital, of 100,000.
2 Under this agreement, would Kaweah pay us the other
3 30,000 back?

4 MS. FINCH: That's -- in a way, that's outside
5 of my area. Because that -- but what I -- and if you'd
6 like to put this off, it's fine.

7 But my understanding is there are credits
8 going back and forth, that we'll be given this credit,
9 but we're giving them credit. And my understanding is
10 under this umbrella of final accounting which is
11 subject to a variety of laws that has to be done
12 accurately, we won't be gifting money.

13 This credit won't turn into a gift to Kaweah
14 because you cannot gift State funds. So I think that
15 could be sorted through.

16 PRESIDENT CARTER: If I could interrupt, I
17 want the record to reflect that member Teri Rie has
18 joined the Board here at this time.

19 And I think that with regard to the final
20 accounting, and I think we need to -- it's an unknown
21 at this point in terms of who owes what how much, and
22 that's somewhat tangential to the real issue of whether
23 or not the Board thinks the State ought to retain
24 ownership of this 500-odd acres, if it has a use for it
25 or not.

1 Whether the State ends up owing Kaweah money
2 or Kaweah ends up owing the State money, that will all
3 come out in the wash at some point. So we probably
4 don't need to get bogged down in that because we don't
5 know what the facts are.

6 So I think what we need, the issue before us
7 today, is whether or not we think that the State has a
8 use for this property or not, and if the highest, best
9 use is to turn it back over to Kaweah or not, and they
10 intend to use it as a mitigation site.

11 My question is does the State have any
12 intentions or will they have a need in the future for
13 mitigation sites in this area that this property might
14 serve the State better later?

15 MS. FINCH: That never came up in the
16 discussions.

17 PRESIDENT CARTER: Has anybody thought about
18 that?

19 MS. FINCH: I thought about it. But you know,
20 in negotiating this over a few meetings, there were
21 other attorneys present and real estate representatives
22 and, you know, my memory doesn't serve me well as to
23 the discussions we had.

24 But I think it would have come up if the State
25 needed it as mitigation land. That is something we can

1 put this off and look into.

2 PRESIDENT CARTER: Yeah, I think the people
3 who know whether or not we're going to need mitigation
4 are the people who are doing the projects or planning
5 the projects in the future, not necessarily the legal
6 staff or the real estate folks.

7 And they might have a heads-up, but they
8 probably won't be looking out as far ahead as the folks
9 who are looking at doing projects in terms of the
10 Central Valley Flood Protection Plan, our plan for this
11 year.

12 So if none of those folks were involved in
13 your discussions, we might want to ask those questions
14 of those people.

15 BOARD MEMBER BURROUGHS: I think so.

16 EXECUTIVE OFFICER PUNIA: I just want -- they
17 are aware, and Anna Hegedus is the program manager, and
18 she was aware of the situation. And I think she was at
19 one of your meetings Nancy?

20 MS. FINCH: She was not involved in the
21 meetings because the project manager was on leave at
22 the time, and so there was actually -- there was no one
23 in Anna Hegedus's group who had worked on this issue
24 that I could contact in the last few months.

25 EXECUTIVE OFFICER PUNIA: But they are well

1 aware of the situation, that this is going and what's
2 being done.

3 MS. FINCH: Actually, Jay, you may have a
4 better idea of their level of awareness.

5 PRESIDENT CARTER: Is our Board staff, are
6 they aware of any potential need for this property from
7 a State perspective for mitigation or other purposes?

8 BOARD MEMBER BROWN: Again, where is the
9 506 acres?

10 PRESIDENT CARTER: Part of the Davis Ranch,
11 isn't it? A portion of that 4800 acres, 4900 acres.

12 MR. STADLER: Yeah, this is -- the area that's
13 cross-hatched is the 506 acres. I might point out that
14 we had discussions with both the State and the
15 Department of Water Resources as far as the Operation
16 and Maintenance manual goes.

17 Everyone was fully aware of the fact that
18 these 506 acres would be taken out of the Davis Ranch.
19 The area that we're proposing to be left in is what was
20 the requirement. And I think there was plenty of
21 discussions at the time over the years with the
22 Department concerning this, and that question has never
23 been brought up.

24 One of the things we find out in these
25 mitigations is that you have to have a specific piece

1 of property for a specific habitat. This is kind of an
2 oak ranch, oak trees there. If you've got an area
3 around the country that had a lot of oak trees, you
4 know, you had to mitigate for them, this would be a
5 pretty good spot. But if it's something else like a
6 beetle or something like this, this land probably
7 wouldn't qualify.

8 Now I'm not an expert in that, just a civil
9 engineer. But I've been told that this land probably
10 would have only limited environmental use for an
11 environmental enhancement part so -- at least, that's
12 coming from a nonenvironmental person.

13 And I would like to clear up one thing here is
14 that we have been talking about 70 percent of the Davis
15 Ranch. Remember, the project is 9.32 percent water
16 supply. The remainder, which is 90.68 percent, is a
17 flood control portion.

18 The Reclamation Board, which is your Board. I
19 call it the Reclamation Board, but -- and the State is
20 involved in flood control only which is 90.68 percent.
21 The State is 70 percent of that.

22 So when you're talking 70 percent, you should
23 really be talking about 70 percent of 90.68 percent,
24 just a matter of clarification.

25 PRESIDENT CARTER: Thank you. Okay.

1 Ms. Finch, did you -- what's your plan? At
2 this point, what's your recommendation?

3 MS. FINCH: Well, I still haven't covered the
4 warranty deeds. Because these are the -- if you look
5 at the last page of the Resolution, the first
6 Resolution has two components. One is the quitclaim of
7 the current interest to that portion of the Davis
8 Ranch, the 506 acres to the Kaweah Delta Water
9 Conservation District and then receive credit.

10 Then the second part has to do with the second
11 warranty deed. Maybe at this point I'll move on to
12 that.

13 PRESIDENT CARTER: Okay.

14 MS. FINCH: So the warranty deeds have to do
15 with the Corps requiring the nonfederal sponsors to
16 convey fee title of this area to the Corps, and that
17 will be done through warranty deeds which is a bit
18 unusual in California, but it can be done this way.

19 But at the same time, the nonfederal sponsors
20 who are the locals and the Board need access for
21 operation and maintenance. So the way this access will
22 be solidified in a legal way is that when the warranty
23 deeds are executed there will be created an easement by
24 reservation in those warranty deeds.

25 So both Kaweah and the Board will reserve the

1 right to enter the land for operation and maintenance
2 purposes.

3 PRESIDENT CARTER: Is it common for the Corps
4 to require land underneath the water line or reservoir
5 to be conveyed to them in fee title, or is that more
6 common to be conveyed to the Sacramento-San Joaquin
7 Drainage District?

8 MS. FINCH: You know, I don't know that
9 answer. But I think that because it's a dam and a lake
10 that might have something to do with it.

11 PRESIDENT CARTER: The State operates and
12 maintains --

13 MR. STADLER: Well, the local people are
14 required to operate and maintain it. The nonfederal
15 people are required to do that. Kaweah Delta is the
16 one that's taken over that obligation.

17 Since it's a little bit of a hassle for us to
18 do that, we had agreed with the Corps they would do the
19 operation and maintenance, we would deed the land back
20 to them, and therefore they would bill us every year on
21 the basis.

22 And most of the other lands around the lake
23 are owned in fee by the Corps of Engineers.

24 MS. FINCH: So that's a history to why we were
25 approached and asked for this too. And most of the

1 negotiations happened before my time, so that's one of
2 the reasons. I came in at the end with these two.

3 BOARD MEMBER BROWN: Why does Kaweah want this
4 land?

5 MS. FINCH: The 506 acres?

6 BOARD MEMBER BROWN: Yes.

7 MS. FINCH: I think for future mitigation.

8 And that's why the question came up as to whether the
9 State could use that land for mitigation.

10 BOARD MEMBER BROWN: Well, if they can, so
11 could the State.

12 MS. FINCH: Yeah. Well, I think Mr. Stadler's
13 response was that because of the requirements of
14 mitigation land, and it needs to be near a project they
15 could use the mitigation land more efficiently than the
16 State. So from what I understand it sounds like those
17 negotiations took place before my time.

18 BOARD MEMBER BROWN: Does it sound like --
19 \$260 an acre, approximately, is that a typical value
20 for these lands on the Davis Ranch?

21 MS. FINCH: I wasn't part of the process, the
22 evaluation process.

23 BOARD MEMBER BROWN: Don't we need to know
24 some of these answers before we can properly vote on
25 this thing?

1 MS. FINCH: You know, we reviewed their
2 numbers that -- Kaweah came with their numbers and
3 presented them to Legal Staff and Real Estate. And we
4 reviewed it in light of the whole history. And Ward
5 Tabor was in on -- was with me at these meetings, and
6 he has more history, and so many of the decisions that
7 were made, that Legal made, were made in conjunction
8 with the knowledge Ward Tabor had.

9 BOARD MEMBER BROWN: Do we have something from
10 Legal that says this is a fair price and proper
11 transaction?

12 MS. FINCH: Other than me standing before you
13 and saying we reviewed it and found under these
14 circumstances it's fair.

15 BOARD MEMBER BROWN: I understand.

16 MS. FINCH: Mr. Smith may have something to
17 say. He's the attorney for Kaweah.

18 MR. SMITH: Good morning, Mr. President and
19 Members of the Board. My name is Zachary Smith, and I
20 am general counsel for the District. I have been
21 involved in this project since its inception.

22 And the price, that \$131,000 that you're
23 seeing today, is merely a percentage of the purchase
24 price. It's the purchase price and then the State's
25 share of that, the 62.35 percent or whatever the exact

1 number is of the original purchase price.

2 \$409 per acre is what the District paid for
3 the property, and then the State reimbursed the
4 District later on for its share, 62-plus percent, and
5 that --

6 BOARD MEMBER BROWN: We're being credited \$260
7 an acre?

8 MR. SMITH: Yes. Which is exactly what you
9 paid for it.

10 BOARD MEMBER BROWN: No? What? We paid \$206
11 or 260 an acre for it?

12 MR. SMITH: Yes.

13 BOARD MEMBER BROWN: We did, the Board did?

14 MR. SMITH: You reimbursed the District for
15 its purchase price of \$409 an acre. You purchased your
16 share with the 62 percent of that, whatever the number
17 is, 200 --

18 MS. FINCH: I have on a piece of paper I
19 thought could be on the overhead, this was the
20 information that Kaweah presented to the Legal -- their
21 information as to the valuation. And I copied it.

22 I wasn't sure if the issue would come up, so I
23 didn't make a copy for everyone. But since the issue
24 has come up, if we could get it -- can you read that?
25 Maybe not. I could get some copies made.

1 BOARD MEMBER BURROUGHS: Let's just read it.

2 MR. SMITH: The District initially paid
3 \$2 million for their -- the entire ranch.

4 BOARD MEMBER BROWN: How much an acre?

5 MR. SMITH: \$409 an acre.

6 BOARD MEMBER BROWN: \$409. The District and
7 the State paid that?

8 MR. SMITH: The District purchased the
9 property in 1998. In 1999, the State entered into a
10 real estate acquisition agreement with the District to
11 reimburse the District for the State's share the cost
12 of this particular mitigation site, the same percentage
13 for all the players for the project. The 62 point --

14 VICE-PRESIDENT HODGKINS: 63.476.

15 MR. SMITH: Is that what it is? Okay. That
16 percentage. So if you take that percentage, .637 times
17 409, that's what the State reimbursed the District for
18 each acre. And that's the amount now that we're
19 talking about as the credit. Is that not making sense?

20 BOARD MEMBER BURROUGHS: What's the current
21 value of the land right now? That was a question.

22 MR. SMITH: We're talking about the same value
23 that it was paid for. There's been no recent appraisal
24 of the property.

25 BOARD MEMBER BURROUGHS: Thank you.

1 MR. SMITH: Let me just mention, on the 560
2 acres, a little history the Board might be interested
3 in. When the District purchased this property, it was
4 aware the Corps may not require all of it for
5 mitigation.

6 We were aware there was a riparian mitigation
7 requirement for the project. We had to acquire 40
8 acres of riparian mitigation site. On the chart that
9 you see there Dry Creek, which is near the lake, near
10 this property, we entered into negotiations to trade
11 the 400 acres Section 8 for the 40 acres of mitigation
12 property.

13 And that was the idea when we bought the
14 property, we could trade and acquire the riparian
15 mitigation site, 40 acres for the 400. That deal fell
16 apart. The people that had 40 acres, they decided
17 they'd rather have the 40 acres than this 400 acres.

18 So the back side of the ranch is very
19 difficult to get to. It's rocky terrain. It's got
20 some oak -- I think some oak tree mitigation value; but
21 other than that, we're not aware of any mitigation
22 value to it.

23 The District is involved, as Mr. Stadler said,
24 in a long-term project to try to develop the habitat
25 conservation plan and is piecing together parcels here

1 and there to formulate that plan and just believes that
2 these 506 acres that are excess, something needs to
3 happen with them, and perhaps we can fit it into the
4 District's plan. That's all we're trying to do.

5 PRESIDENT CARTER: Ladies and gentlemen, maybe
6 in an effort to try to get us back on track here, it
7 seems like there's a fair amount of confusion over
8 Item 1 on the Resolution which is the quitclaim and the
9 credit in terms of whether or not the State has use,
10 what the value is, what was paid and so forth.

11 Perhaps we're not quite ready to go ahead with
12 that piece of this, but perhaps Items 2 and 3 as it
13 relates to 2, the Board might be able to take action
14 on.

15 And maybe I might suggest that the Board
16 consider that in terms of moving forward and then get a
17 more complete package of information on a timely basis
18 to review the quitclaim piece of this. What's the
19 Board's pleasure here?

20 BOARD MEMBER BROWN: I like that idea,
21 Mr. Chairman.

22 PRESIDENT CARTER: I guess are enough of us
23 comfortable with what we've heard so far to go ahead
24 and take action on the entire Resolution, or do we want
25 to split it up?

1 BOARD MEMBER BURROUGHS: Since we were just
2 given the information, I am not comfortable with taking
3 action on it today.

4 PRESIDENT CARTER: Okay.

5 VICE-PRESIDENT HODGKINS: If Ms. Finch can
6 assure me that, no matter what the final accounting
7 comes out, the State is going to receive \$131,258 in
8 value, I'd be prepared to vote the entire Resolution.

9 PRESIDENT CARTER: Ms. Rie, do you have any
10 comments?

11 BOARD MEMBER RIE: There wasn't any
12 information in my package for this item, so --

13 PRESIDENT CARTER: Correct. It didn't come
14 out with the Board packet.

15 BOARD MEMBER BROWN: We just got it this
16 morning.

17 BOARD MEMBER RIE: I don't have anything, so I
18 can't comment.

19 PRESIDENT CARTER: Okay. What's the Board's
20 pleasure?

21 BOARD MEMBER BROWN: Let's hear the answer to
22 Butch's question, Mr. Hodgkins' question.

23 MS. FINCH: Well, it appears that in the final
24 accounting that that credit for -- the crediting aspect
25 will be resolved because there cannot be a gift of

1 public funds.

2 So because of that, I can assure you that the
3 final accounting, if done properly, which is out of our
4 hands today, will guarantee that the State will get
5 that \$130,000 credit.

6 VICE-PRESIDENT HODGKINS: So the State will
7 get it if, in the end, the State only owes Kaweah
8 \$100,000?

9 BOARD MEMBER BROWN: Mr. Chairman, I heard an
10 "appears" and "if done properly."

11 PRESIDENT CARTER: I'll entertain a motion one
12 way or the other from a member of the Board.

13 VICE-PRESIDENT HODGKINS: I'll move approval
14 of the item subject to a condition being added to the
15 transaction that the State is to receive value of
16 \$131,258 for this property, either in the form of
17 credit or cash.

18 PRESIDENT CARTER: Okay. We have a motion to
19 approve Resolution number 08-06 subject to a condition
20 that the State receive value of \$131,258 for the
21 transaction. Is there a second?

22 Hearing none, the motion dies.

23 Do we have another motion?

24 BOARD MEMBER BROWN: I'll make a motion,
25 Mr. Chairman, that we receive as you suggested as the

1 second part of this, that I'd like to have staff come
2 back with some better figures, making sure that the
3 Board -- State's getting proper value for the land
4 we're trading and be prepared to act on that at our
5 next Board meeting.

6 So right, now I'm ready to go ahead and move
7 on the second part. I think that's clear enough.

8 But I think we need some better figures and
9 information on the first part, Mr. Chairman, so I'll
10 make that motion.

11 PRESIDENT CARTER: Okay. So we have a motion
12 to approve Resolution 08-06 with the modification that
13 we remove Item 1 under the Resolution, 1A and 1B, but
14 continue with Item 2 which states that:

15 The Board agrees that the Executive
16 Officer may execute acceptance of
17 easements that are created by
18 reservation through a warranty deed and
19 delegates to the Executive Officer
20 authority to execute any necessary
21 documents to implement the above
22 transaction.

23 BOARD MEMBER BURROUGHS: I'll second that.

24 PRESIDENT CARTER: Okay. We have a motion and
25 a second. Any further discussion?

1 BOARD MEMBER BROWN: Can staff get into this,
2 the figures and values, and be ready to present a
3 recommendation at our next Board meeting so we can keep
4 this project on track and expedite it as quickly as we
5 can? I guess I should be asking Jay that question.

6 EXECUTIVE OFFICER PUNIA: I think we'll work
7 the project manager, Project Development Grants staff,
8 to be involved in this and we'll -- I cannot guarantee
9 it without talking to them.

10 But they are the lead in this project, the
11 project is with the State which final numbers have to
12 be crunched so that we can establish who owes whom.
13 And the Corps, maybe also. We'll do our best to bring
14 you the additional information at the next Board
15 meeting.

16 BOARD MEMBER BURROUGHS: I have a question for
17 Mr. Stadler. You mentioned that you haven't received
18 an update for the last three years from the State?

19 MR. STADLER: That's correct.

20 BOARD MEMBER BURROUGHS: Who was the contact
21 person that used to provide you the information?

22 MR. STADLER: There was a project manager
23 called Crane, Mr. Robert Crane. And as I understand,
24 he got relocated to a different job or got a new
25 position.

1 In addition to that, Robert did a very, very
2 good job of trying to give us estimates on a monthly
3 basis. Evidently, the new excuse that I hear is the
4 fact that the Department of Water Resources has a new
5 computer system and can't give us that information.

6 BOARD MEMBER BURROUGHS: You also mentioned
7 that you didn't get estimates from the Corps as well.
8 Who used to be your contact for the Corps?

9 MR. STADLER: Well, we've have been talking,
10 Norbert Suter has come back, and we've talked to him
11 about getting the final information. They do not give
12 us any update information, just kind of general cost.

13 And one of the problems that we're having is
14 that, you know, the flood control people have to pay
15 the Corps the five percent cash requirement. So for us
16 to make the final accounting and the cash, we have to
17 have both the State cost, our cost, and the Corps of
18 Engineers cost and then come up with the figure of five
19 percent.

20 Well, we can't do that really until we get all
21 the costs in. But I can make some estimates. But you
22 know estimates, and I'm the only one making estimates
23 and I'll be criticized for not having the correct
24 value.

25 BOARD MEMBER BURROUGHS: Well having estimates

1 helps look at the overall scope of the magnitude of
2 what we're talking about between the total cost.

3 MR. STADLER: Well, what we have done is
4 estimated for our purposes what the Corps has for the
5 final estimated cost. We've held that as a firm price.

6 The information that Robert Crane gave us up
7 to date which is about three years ago, we've been
8 using that, then we've been adding so much every month
9 for the State charges. Now the State charges could be
10 more or less than that.

11 And we keep our costs on a monthly basis so we
12 keep it by parcel. We have a pretty good idea what
13 we're charging.

14 Now, it turns out that I have asked the Corps
15 a couple weeks ago what their costs are. They gave me
16 an estimated cost. Their estimated cost was several
17 million dollars less than what they had given us
18 before, so I'm kind of faced with my estimate maybe is
19 on the high side.

20 BOARD MEMBER BURROUGHS: Thank you.

21 PRESIDENT CARTER: Any other questions,
22 discussion?

23 BOARD MEMBER RIE: Yes.

24 PRESIDENT CARTER: Ms. Rie?

25 BOARD MEMBER RIE: The Resolution refers to an

1 LPCA. Do we have a copy of that?

2 MS. FINCH: It's not in the Board package that
3 was presented to the Board today. Would you like that
4 in the future? The LPCA, would you --

5 BOARD MEMBER RIE: Well, the Resolution
6 modifies the LPCA, so I'm just curious what the
7 modifications were.

8 MS. FINCH: Actually, I think it cites the
9 LPCA. That's what allows the transaction to occur,
10 that the LPCA allows it, the PCA allows it, and the
11 State law allows it. And I think that's what is trying
12 to be captured in the Resolution, what I was trying to
13 capture.

14 BOARD MEMBER RIE: Okay. And we're modifying
15 the Resolution, and I'm not quite sure which paragraphs
16 we're modifying or changing or deleting. Can we go
17 through that?

18 MS. FINCH: Yes. For the Resolution itself?

19 BOARD MEMBER RIE: Yes.

20 MS. FINCH: My understanding is that
21 Resolution number 1, which is regarding the Davis
22 Ranch, is going to be stricken. And what is before the
23 Board today now is only 2, which is regarding the
24 warranty deeds that the Corps -- that the Corps wants,
25 the perimeter land in fee, and yet the local

1 maintaining agencies, the Kaweah and the State, are
2 going to have an easement by reservation. And so that
3 is what -- I'm sorry; that's number 2. That's correct.

4 Then number 3 delegates the Executive Officer
5 to execute any necessary documents.

6 So for 2, that would be the warranty deeds,
7 easement, that -- so 2 and 3 could be applied together
8 and have 1 struck, and that would be fine.

9 DEPUTY ATTORNEY GENERAL CAHILL: And then if
10 you are going to do that, then do you delete all the
11 whereas clauses except for the first one and the last
12 three?

13 MS. FINCH: That's a good question because it
14 is the last three that are related to the warranty
15 deeds. The rest is related to the Davis Ranch.

16 BOARD MEMBER RIE: And as far as executing
17 documents, is it executing easements? Is that what
18 you're asking for delegation for?

19 MS. FINCH: It would be the warranty deeds,
20 executing the warranty deeds with the reservation in it
21 which would grant these easements by reservation.

22 BOARD MEMBER RIE: Wouldn't the warranty deeds
23 need to be executed by the Board president?

24 MS. FINCH: Do you mean under the current
25 Delegation Authority?

1 BOARD MEMBER RIE: No, just because they're
2 deeds.

3 MS. FINCH: I believe under the current
4 delegation that the Executive Officer can execute real
5 estate transactions. Yeah.

6 BOARD MEMBER RIE: I'm not sure about that
7 because --

8 MS. FINCH: I don't have it with me.

9 BOARD MEMBER RIE: Pretty much every time we
10 have a real estate deed come before the Board we have
11 the President and the Secretary sign those, and those
12 are notarized and we go through the exercise of
13 fingerprinting and all that.

14 MS. FINCH: I think Mr. Smith would like to --

15 MR. SMITH: I have been involved with the
16 warranty deeds so far, and they're deeds from the
17 District which acquired the property in its name to the
18 Corps with a reservation in the legal description in
19 favor of the Sacramento-San Joaquin Drainage District
20 and the Kaweah Delta Water Conservation District.

21 So that the grantor -- the Board is not the
22 grantor on the deed, so there's no need for President
23 and Secretary. The only place the Board signs is on
24 the acceptance because it's receiving this easement
25 that's reserved in the legal description, so there's

1 not a need for both signatures.

2 BOARD MEMBER RIE: Okay.

3 MS. FINCH: And part of that is in the general
4 population individuals can gift land, just go down to
5 the Recorder's Office and say I give this land to this
6 other individual. But the State has to officially
7 accept it. People can't just give the State land
8 without the State accepting it.

9 BOARD MEMBER RIE: But wouldn't that be the
10 Board president that accepts the land on behalf of the
11 District?

12 MS. FINCH: I believe it's -- does anyone have
13 a copy of the Delegation Authority? I believe the
14 current delegation allows for the Executive Officer to
15 accept --

16 BOARD MEMBER RIE: I think I have a copy.

17 MS. FINCH: I didn't bring a copy.

18 PRESIDENT CARTER: I think I have a copy of
19 the Delegation General Authority. This is Resolution
20 number 06-08 signed on April 21st, 2006. Let me take a
21 moment.

22 MS. FINCH: That's --

23 PRESIDENT CARTER: That's the current one.

24 MS. FINCH: I think it's 06-08.

25 PRESIDENT CARTER: 06-08.

1 MS. FINCH: Or 08-06.

2 And then just to let you know, you may or may
3 not be aware of this. Another Delegation Authority
4 that exists is that the Chief of the Division of
5 Engineering can execute these warranty deeds as well.

6 And in fact, originally I drafted this where
7 it could be delegated to either Jay or the Chief of the
8 Division of Engineering. But I couldn't find that
9 delegation number, so I took it out.

10 Mr. Smith just handed me a warranty deed that
11 was executed with the Chief of the Division of
12 Engineering's signature, so I may be able to get hold
13 of --

14 DEPUTY ATTORNEY GENERAL CAHILL: You know, if
15 there's any uncertainty since it's coming to the Board
16 for approval, the Board could approve it and then
17 direct the President to sign it and you know you're
18 covered.

19 MS. FINCH: Or direct the Executive Officer to
20 sign it or the President?

21 DEPUTY ATTORNEY GENERAL CAHILL: The
22 President, if there is a doubt as to whether it can be
23 delegated. The safe thing to do is to have the Board
24 President sign it.

25 PRESIDENT CARTER: The General Delegation of

1 Authority 06-08 under Item 3H says, Item 3, the
2 following delegation of the Board authority hereby made
3 to the General Manager with the authority to
4 redelegate. Item H says, consent to and execution of
5 written acceptance of deeds and grants conveying
6 interest in real property to the Board required for
7 projects approved by the Board.

8 So I think that we have delegated that.

9 MS. FINCH: I apologize. Now that you mention
10 it, it's in the Resolution itself. The 3H, the second
11 from the bottom whereas, Resolution 06-08 3H. I
12 apologize. I didn't remember that.

13 BOARD MEMBER BROWN: Mr. Chairman?

14 PRESIDENT CARTER: Yes, sir.

15 BOARD MEMBER BROWN: I don't wish to amend my
16 own motion, but somebody may wish to, is that the
17 motion is on the table, but we may wish to ask our
18 counsel to amend this document, the Resolution number
19 08-06 to conform with the motion that's on the table.

20 PRESIDENT CARTER: Okay.

21 BOARD MEMBER BURROUGHS: I do so.

22 PRESIDENT CARTER: You do so. Member
23 Burroughs so amends your motion to request that
24 Ms. Cahill amend the Resolution to reflect the motion
25 that you made. Do you accept that amendment?

1 BOARD MEMBER BROWN: I'll second the
2 amendment, and I don't guess you need to do that; but
3 yes, I accept it.

4 DEPUTY ATTORNEY GENERAL CAHILL: Can I
5 clarify: That means to eliminate the extraneous
6 whereas clauses and to eliminate those portions of the
7 Resolution?

8 PRESIDENT CARTER: Yes, approximately 14
9 whereas clauses, I think only four of which really
10 pertain to the item, the second portion of the
11 Resolution.

12 BOARD MEMBER BROWN: Then you want to include
13 in that the authority for the Executive Officer to sign
14 this, or do you want to leave your name on it?

15 PRESIDENT CARTER: That's up to the Board,
16 what you'd like to do. It appears that our General
17 Delegation of Authority allows us to delegate to the
18 General Manager to sign on this?

19 BOARD MEMBER BROWN: I'm all right with that.

20 BOARD MEMBER BURROUGHS: So am I.

21 MS. FINCH: Just so I understand, you're
22 talking about the subsequent documents. The Resolution
23 today will not be signed by Jay.

24 BOARD MEMBER BROWN: Not this one.

25 PRESIDENT CARTER: The Resolution will be

1 signed by the President and Secretary of the Board.

2 MS. FINCH: Right.

3 PRESIDENT CARTER: But the Board is allowing
4 the Executive Officer -- delegating authority to the
5 Executive Officer to execute any necessary documents to
6 implement the warranty deeds.

7 MS. FINCH: Okay.

8 PRESIDENT CARTER: Is that perfectly clear?

9 BOARD MEMBER RIE: Thank you for clarifying
10 that, President Carter.

11 PRESIDENT CARTER: Any other questions,
12 discussion?

13 So we have a motion to approve Resolution
14 06-08 amended to reflect the motion which is to remove
15 Item 1 from the Resolution regarding the quitclaim and
16 the credit for the quitclaim, but it still includes
17 Item 2 which agrees the Executive Officer may execute
18 acceptance of easements that are created by
19 reservations through the warranty deed, and Item 3
20 delegates the Executive Officer authority to execute
21 any necessary documents to implement the above
22 transaction.

23 Any further discussion? Mr. Punia, would you
24 call the roll?

25 EXECUTIVE OFFICER PUNIA: Board Member John

1 Brown?

2 BOARD MEMBER BROWN: Aye.

3 EXECUTIVE OFFICER PUNIA: Board Member Rose

4 Marie Burroughs?

5 BOARD MEMBER BURROUGHS: Aye.

6 EXECUTIVE OFFICER PUNIA: Board Member Butch

7 Hodgkins?

8 VICE-PRESIDENT HODGKINS: Aye.

9 EXECUTIVE OFFICER PUNIA: Board Member Teri

10 Rie?

11 BOARD MEMBER RIE: Aye.

12 EXECUTIVE OFFICER PUNIA: Board President Ben

13 Carter?

14 PRESIDENT CARTER: Aye. Thank you very much.

15 Mr. Stadler, I apologize. We weren't able to do

16 everything for you, but hopefully we'll get some

17 information for both you and us so we can make an

18 informed decision on the balance.

19 MR. STADLER: Thank you.

20 PRESIDENT CARTER: Thank you. Okay. Item 10,

21 the Cherokee Canal Habitat Restoration Project. This

22 is to consider approval of Resolution 08-08 for the

23 Cherokee Canal Habitat Restoration Project authorizing

24 the Executive Officer to send a letter to the US Army

25 Corps of Engineers expressing the Board's continued

1 interest and financial capability to be nonfederal
2 sponsor of this project under Section 1135.

3 Mr. Okupe, is that correct?

4 MR. OKUPE: That's correct.

5 PRESIDENT CARTER: Welcome.

6 MR. OKUPE: Thank you. Good morning, Members
7 of the Board, President Carter. My name is Yemi Okupe,
8 and I am a water resource engineer with the Department
9 of Water Resources, Division of Flood Management
10 Branch.

11 Today I will be discussing Resolution 08-08
12 which seeks to enable the Department to express
13 interest in a Project Partnership Agreement with the
14 Army Corps of Engineers for the Cherokee Canal
15 Rehabilitation Project.

16 The Cherokee Canal Rehabilitation Project is
17 located 15 miles Northwest of Oroville. The Cherokee
18 Canal drains into Butte Creek, which is a tributary of
19 the Sacramento River.

20 The Cherokee Canal project was built in 1960
21 as part of the Sacramento River Major and Minor
22 Tributaries Project. The purpose of the project was to
23 provide a means to stop flooding in areas adjacent to
24 Dry Creek. The Cherokee Canal did this by providing a
25 means for excess sediment to flow through Dry Creek.

1 Sediment that was supposed to be collected and
2 be held by the Old Cherokee Debris Dam now collects
3 within the Cherokee Canal channel. Periodic dredging
4 of the Cherokee Canal channel is required as a result
5 of the sediment collection.

6 The dredging process that is required is both
7 costly and harmful to the environment. The Cherokee
8 Canal Rehabilitation project seeks other means to
9 increase flow capacity through the system while
10 simultaneously improving the environment within the
11 area.

12 The Cherokee Canal project has a few goals.
13 The Cherokee Canal project seeks to improve the
14 environment through a variety of ways. When sediment
15 is cleared from the main channel, it provides
16 additional aquatic habitat to the area and leaves
17 additional room to plant riparian forest habitat.

18 On top of environmental benefits, the Cherokee
19 Canal project also seeks to limit sediment accumulation
20 within the Cherokee Canal system. The reduction of
21 sediment will lead to reduced maintenance costs both
22 within the Cherokee Canal system and the Sacramento
23 River system.

24 Six possible solutions will be investigated in
25 the Ecosystem Restoration Report for the Cherokee Canal

1 project. The solutions will be assessed based upon the
2 additional amount of environmental benefit provided,
3 the total cost of each alternative, and the feasibility
4 and efficiency with which the alternative can be
5 implemented and maintained.

6 The first alternative seeks to leave the
7 existing condition in place. This alternative would
8 result in continued sediment accumulation within the
9 main channel which would eventually result in a split
10 of flows. A channel with two streams is undesirable
11 due to both higher maintenance costs and a loss of
12 environmental habitat.

13 The second alternative seeks to remove the
14 sediment source or reduce its impact downstream. It
15 would do this by removing excess gravel, sediment, and
16 debris along the Sawmill Ravine as shown.

17 The third alternative aims to construct
18 sediment basins that reduce the amount of sediment that
19 enters the Cherokee Canal. The alternative would
20 involve constructing basins and planting vegetation to
21 provide the basins a controlled means with which to
22 collect sediment within the basins.

23 The fourth alternative involves dredging the
24 Cherokee Canal channel from Nelson Shippee Road to
25 Richvale. Subsequent to dredging, vegetation would be

1 planted on both sides of the outer bank.

2 It should be noted that DWR has plans to
3 dredge the canal from Richvale to Western Canal and
4 from other portions extending all the way from Richvale
5 Road to Highway 162 in the future.

6 The fifth alternative is a combination of
7 alternatives 2 and 4. The canal would be dredged from
8 the limits previously mentioned, and the source of
9 debris would be removed to prevent future sediment
10 accumulation.

11 The sixth alternative would combine
12 alternatives 3 and 4. The channel would be dredged, as
13 mentioned before, and sediment basins would
14 subsequently be constructed within the Sawmill Ravine
15 to prevent future sediment collection within the
16 system.

17 Several benefits result from the Cherokee
18 Canal Rehabilitation Project. Aside from environmental
19 benefits, the Cherokee Canal would lead to a reduction
20 in maintenance costs via several means, one of which is
21 the reduction in future sediment removal projects.

22 Another is the potential reduction of sediment
23 that enters the Sacramento River system through the
24 Butte Creek tributary.

25 The cost for removing sediment ranges right

1 now from \$3 to \$6 per cubic yard, and this figure rises
2 continuously when cost mitigation is taken into
3 account.

4 In the mid 1990s, over 200,000 cubic yards of
5 sediment was removed from the channel, and well over
6 200,000 cubic yards of sediment is slated to be removed
7 again within the near future.

8 A significant portion of the Cherokee Canal
9 project will be funded under Section 1135 in the
10 Corps's Continuing Authorities project. CAP projects
11 typically are used as means to offset degradation of
12 the environment caused by past Corps projects.

13 The Cherokee Canal was a previously approved
14 CAP project, but lost funding when a moratorium was
15 placed on CAP projects in 2004.

16 Estimated project costs from the Ecosystem
17 Restoration report are shown on this slide. The total
18 cost was estimated to be \$6.6 million in the year 2000.
19 75 percent of the cost would be paid for by the Corps,
20 and the nonfederal sponsor would be obligated to pay
21 25 percent.

22 The project time line. The Cherokee Canal
23 project would take roughly four and a half years to
24 complete, and would be monitored -- have post
25 construction monitoring for approximately three years.

1 Under the CAP program, projects typically move
2 at a faster pace due to the elimination of certain
3 requirements, such as Congressional approval. After
4 all the studies are complete, construction of CAP
5 projects typically takes no more than three years to
6 complete.

7 At this time, DWR seeks permission from the
8 Reclamation Board to express interest in entering into
9 Project Partnership agreement with the Army Corps.
10 Resolution 08-08 outlines this request as follows:

11 Now, therefore, be it resolved that the
12 Central Valley Flood Protection Board
13 delegates to the Executive Officer its
14 authority to provide a letter to the US
15 Army Corps of Engineers regarding its
16 continued interest and financial
17 capability to be the nonfederal sponsor
18 of the Cherokee Canal Habitat
19 Restoration Project under the
20 cost-shared Continuing Authorities
21 Program, Section 1135 of the Water
22 Resources Development Act of 1986.

23 I'd be happy at this time to take any
24 questions.

25 PRESIDENT CARTER: Are there any questions?

1 VICE-PRESIDENT HODGKINS: Yes. In this
2 project here, where is the State share of the funding
3 coming from?

4 MR. OKUPE: I believe they probably come from
5 the General Fund.

6 VICE-PRESIDENT HODGKINS: Where?

7 MR. OKUPE: Either General Fund or bond money
8 would be allocated. The project early, the State would
9 be responsible for funding the project until 2011. By
10 then, we should be able to fund it, budget it within
11 the 2011 budget.

12 VICE-PRESIDENT HODGKINS: Okay. Now would the
13 Board have a chance to -- under 1135, do we get a
14 chance to look at specifically the project that's
15 proposed?

16 MR. OKUPE: Yes. At this time, we are just
17 seeking permission to express interest with an
18 agreement prior -- the Corps system administrator
19 before it's done, a Resolution will be created with the
20 further details that will express which alternative
21 we're choosing and we'll seek permission at the time
22 again.

23 VICE-PRESIDENT HODGKINS: Okay. Thank you.

24 BOARD MEMBER BROWN: What are you going to do
25 with the five and a half million yards of material that

1 you're removing?

2 MR. OKUPE: In terms of the --

3 BOARD MEMBER BROWN: Where are you going to
4 put it? Just a matter of interest.

5 MR. OKUPE: Oh. Currently like we're
6 investigating various locations, but right now we're
7 already slated to dredge the channel next year as well
8 as the year after that so we'll probably put it in the
9 same place slated to be at this time.

10 BOARD MEMBER BROWN: It's \$10 a yard is what
11 you're -- the cost estimate is on that.

12 MR. OKUPE: Hmm.

13 BOARD MEMBER BROWN: For soil removal?

14 MR. OKUPE: It's about \$3 to \$6, but when you
15 take into account mitigation that cost rises
16 significantly, depending on what acquisition is needed
17 or any other effects.

18 BOARD MEMBER BROWN: Okay.

19 PRESIDENT CARTER: I'm sorry. You figure
20 about \$36 a yard for removing the sediment all in?

21 MR. OKUPE: Three to six dollars.

22 BOARD MEMBER BURROUGHS: \$3 to \$6.

23 PRESIDENT CARTER: 3 to 6. I understand.

24 Okay. Any other questions of Mr. Okupe? Okay.

25 Did Mr. Lerner want to address the Board?

1 MR. LERNER: Thank you, President Carter. My
2 name is Noel Lerner. I'm the Branch Chief for
3 Maintenance Support.

4 And we are intimately involved with sediment
5 removal. And for a large project, hundred, two hundred
6 thousand, a million yards, I think you're aware that
7 one of the challenges is finding spoils areas. At
8 Tisdale, we were able to find a landowner who was
9 interested in selling.

10 In Cherokee, we are hoping to do and planning
11 to do a sediment removal project next summer, and it's
12 really predicated on finding a disposal site. And
13 we're trying to work with the local landowners to see
14 if we can find someone who is willing to probably sell
15 us property or rights to dispose.

16 We're also looking at widening the berm along
17 one of the levees. But as we go back to areas, and
18 however long we wait to do a sediment removal, and as
19 we fill those berms, it's more and more a challenge to
20 locate a spoils pile.

21 And we are interested in working with willing
22 sellers, or if the economics are there if someone can
23 reuse the sediment and we work through the permitting
24 issues, we look at those alternatives.

25 So we see this project -- any project that can

1 reduce sediment production in a channel is something we
2 support. And that's why, from a maintenance
3 perspective, even if we cannot use the mitigation as
4 generated by this project because of the federal
5 government's program, we do support it for no other
6 reason than to reduce our sediment maintenance
7 activities.

8 Thank you.

9 PRESIDENT CARTER: Thank you. Mr. Okupe, the
10 locals are all in support of this?

11 MR. OKUPE: At this time, we're not sure. The
12 project is in very preliminary stages. We haven't
13 looked at alternatives yet. We're just gearing up to
14 tell the Corps if they do issue alternatives we will
15 participate with our part of the financing.

16 PRESIDENT CARTER: Okay. Thank you.

17 MR. LERNER: We've had some talks with the
18 local people, and they are supportive. And we are
19 the -- we have a maintenance area there, so as DWR
20 being one of the locals, we're very interested in this.

21 But as well, the -- I think there is a
22 conservancy district associated with Cherokee Canal,
23 and the people have expressed interest in controlling
24 the channel.

25 PRESIDENT CARTER: Thank you. We will

1 entertain a motion one way or the other.

2 BOARD MEMBER BROWN: I'll move approval,
3 Mr. Chairman.

4 PRESIDENT CARTER: Okay. We have a motion to
5 approve Resolution number 08-08.

6 BOARD MEMBER RIE: Second.

7 PRESIDENT CARTER: We have a second. Any
8 further discussion? Mr. Punia, would you call the
9 roll, please.

10 EXECUTIVE OFFICER PUNIA: Board Member Butch
11 Hodgkins?

12 VICE-PRESIDENT HODGKINS: Aye.

13 EXECUTIVE OFFICER PUNIA: Board Member Teri
14 Rie?

15 BOARD MEMBER RIE: Aye.

16 EXECUTIVE OFFICER PUNIA: Board Member John
17 Brown?

18 BOARD MEMBER BROWN: Aye.

19 EXECUTIVE OFFICER PUNIA: Board Member Rose
20 Marie Burroughs?

21 BOARD MEMBER BURROUGHS: Aye.

22 EXECUTIVE OFFICER PUNIA: Board President Ben
23 Carter?

24 PRESIDENT CARTER: Aye. Motion approved
25 unanimously. Very good.

1 At this time, Board pleasure? Shall we break
2 for lunch then reconvene on Item 11? It's almost noon.

3 BOARD MEMBER BURROUGHS: Sounds good.

4 PRESIDENT CARTER: Let's go ahead. We'll take
5 an hour recess and we'll be back here just before 1:00.
6 Thank you very much.

7 (Lunch recess)

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1 AFTERNOON SESSION

2 --o0o--

3 PRESIDENT CARTER: Good afternoon, ladies and
4 gentlemen. If we can go ahead and continue with our
5 meeting.

6 As you recall, we had wrapped up Item 10 prior
7 to lunch, so moving on to Item 11, Woodson Bridge,
8 Ecosystem Restoration Project.

9 This is to consider approval of Resolution
10 08-09 for the Woodson Bridge Ecosystem Restoration
11 Project authorizing the Executive Officer to send a
12 letter to the US Army Corps of Engineers expressing the
13 Board's continuing interest and financial capability to
14 be the nonfederal sponsor of this project under Section
15 1135.

16 Mr. McGrath, good afternoon.

17 MR. McGRATH: Good afternoon, President
18 Carter, Board Members. My name is Eric McGrath. I'm
19 the senior engineer with the Department of Water
20 Resources, Flood Maintenance Office.

21 The purpose of this presentation is to present
22 to you the proposed Woodson Bridge Ecosystem
23 Restoration Project and ask for acceptance of
24 Resolution 08-09.

25 The project is located about 15 miles south of

1 Red Bluff on the Sacramento River between river miles
2 218 and 221. The study area of the project extends an
3 additional two miles upstream and downstream of the
4 project to make sure that all impacts are evaluated.

5 At this location, a project was constructed in
6 1958 by the Army Corps of Engineers entitled Chico
7 Landing to Red Bluff Modification to the Sacramento
8 River Flood Control Project.

9 The intent of the project was to increase
10 sediment transport by channelizing the river and to
11 protect the soft banks from erosion using rock
12 revetment.

13 This effort reduced the natural fluvial
14 process of the river and created more aggressive
15 erosion along the unprotected banks, shifted river
16 aquatic habitat, and the creation of new riparian
17 forests were greatly reduced as a result.

18 Loss of these elements resulted in loss of
19 habitat for fish and wildlife species that rely on the
20 riverbanks, the diverse channel and floodplain
21 structure.

22 The intent of a CAP Section 1135 program is to
23 modify the project for the improvement of the
24 environment where a Corps project has contributed to
25 the degradation of the environment.

1 CAP projects are meant to be quicker to
2 implement, usually only taking three years from study
3 to construction. They do not need Congressional
4 authorization for individual projects.

5 In 2003, the Army Corps of Engineers drafted a
6 preliminary restoration plan for this site under the
7 CAP program at 100 percent federal cost. This plan was
8 included in the packet you received.

9 Under the 1135 program, the next step is to
10 complete the study by way of a detailed project report,
11 which was originally initiated in 2003 but funding was
12 diverted due to the war effort.

13 After the study is complete, if the State
14 wishes to pursue the project and venture into a
15 partnership agreement, the cost share is established at
16 75 percent federal and 25 percent nonfederal.

17 The goals of this project include removal of
18 revetment along about 5600 feet along the Sacramento
19 River, restoration of riparian habitat by reconnecting
20 the river to its floodplain near Kopta Slough, restore
21 and repair its shaded riverine aquatic habitat, provide
22 ecosystem benefits through restoration of the natural
23 fluvial processes such as meandering, and provide flood
24 damage reduction benefits through reduced bank erosions
25 to protect public resources.

1 When the preliminary restoration report was
2 written in 2003, the schedule proposed two years
3 planning and one year of construction. The costs were
4 estimated to total about \$5 million with 1.25 million
5 being the nonfederal share. This slide shows a
6 breakdown of the costs for each phase of the project.

7 The detailed project report and plans and
8 specifications are initially federally funded. The
9 nonfederal share of these costs are reimbursed in the
10 first year of construction. This allows the nonfederal
11 sponsor time to obtain the funding.

12 The Department of Water Resources is currently
13 funding a feasibility study for this area around Kopta
14 Slough. The scope of the project is like that which
15 was started under the Section 1135 project including
16 removing revetment and reconnecting Kopta Slough to its
17 floodplain, but it also incorporates protecting the
18 west abutment of Woodson Bridge and the City of
19 Corning's sewer outfall, hopefully using the same rock
20 removed from the areas upstream.

21 In addition, there's an opportunity to restore
22 a 176-acre parcel to be utilized as advanced mitigation
23 area for DWR maintenance projects including vegetation
24 clearing in nearby creeks such as Deer and Elder.

25 This will be a separate DWR-financed project

1 in order to receive credit for the mitigation; however,
2 the success and the scope of that project rely heavily
3 on completion of the Section 1135 cost share projects.

4 There's many local organizations interested in
5 various aspects of this project including the Nature
6 Conservancy, County of Tehama, City of Corning, State
7 Parks, and the Sacramento River Conservation Area
8 Forum.

9 The purpose of Resolution 08-09 is to provide
10 the federal government with the State's intent to
11 pursue the project with our cost-share agreement. This
12 project was originally slated to be complete in 2005.
13 However, shortly following the 2003 preliminary
14 restoration plan, the program was suspended due to
15 funding shifts.

16 In April of this year, the Corps project
17 manager for the CAP projects contacted the Division of
18 Fund Management and was asked -- let us know there was
19 a moratorium on the program that was lifted, and the
20 Corps was now seeking a nonfederal sponsor.

21 Realizing that there are many benefits to the
22 State, a letter was sent to the Corps informing them
23 that this project would be presented at this Board
24 meeting. This does not obligate the Board to enter
25 into a project partnership agreement, but to provide

1 the Corps with our intent to do so so that they can
2 continue to fund the detailed project report.

3 So at this time, I'd like to ask the Board to
4 consider approving Resolution 08-09 which states:

5 Now therefore be it resolved that the
6 Central Valley Flood Control Protection
7 Board delegates to the Executive Officer
8 authority to provide a letter to the US
9 Army Corps of Engineers regarding its
10 continued interest and financial
11 capability to be the nonfederal sponsor
12 of the Woodson Bridge Ecosystem
13 Restoration Project at Kopta Slough
14 under the cost share Continuing
15 Authority Program, Section 1135 of the
16 Water Resources Development Act of 1986.

17 Thank you for hearing this matter. I also
18 have Aric Lester, Senior Environmental Scientist from
19 DWR's Northern District here who is involved in the
20 feasibility study to answer any questions as well.

21 PRESIDENT CARTER: Thank you. Any questions
22 for Mr. McGrath?

23 I have one. Your picture showed quite a bit
24 of vegetation. That was your cover picture. And about
25 three or four years ago, I toured that on the river by

1 boat, and there is a tremendous amount of riparian
2 vegetation that's grown up through the riprap and the
3 revetment that had been placed there 50 years ago.

4 Is all of that going to have to be mitigated?
5 If they remove that riprap, I assume the vegetation
6 that is growing in it is going to be destroyed. What
7 are the mitigation implications or environmental
8 implications of that?

9 MR. McGRATH: Well, there's various
10 alternatives, either just stopping maintenance on it or
11 removing sections to allow the river to meander, or to
12 remove the entire stretch.

13 And those are going to have to be evaluated to
14 how much riparian is going to be lost and also what is
15 returned in the near future once the rock is removed,
16 that that would basically mitigate itself.

17 Aric probably has more information on that as
18 well.

19 PRESIDENT CARTER: There is more than rock
20 there, isn't there? There are like concrete piles with
21 some sort of metal mesh, and -- or strung between them,
22 and it's a variety of --

23 MR. McGRATH: The Palisades project in 1986.
24 And after the '97 floods, it severely damaged that and
25 DWR removed that project.

1 PRESIDENT CARTER: They did, okay. Okay. So
2 what are the environmental implications for removing
3 the rock? We're doing this for the environment, and
4 how much are we going to have to mitigate?

5 MR. LESTER: Well, there is some riparian that
6 will be damaged with removal of the rock. There is
7 opportunity to get in there probably with an excavator
8 and kind of pick between the riparian vegetation that
9 does exist.

10 So there is going to be some damages. I
11 wouldn't say it's going to be a hundred percent loss
12 along that bank, so -- but as far as the feasibility
13 study, we would look at that, kind of make an estimate
14 of how much riparian forest would be damaged through
15 removal of the rock.

16 PRESIDENT CARTER: Could you remove it from
17 the water?

18 MR. LESTER: I'm sorry?

19 PRESIDENT CARTER: Could you remove it from
20 the water, put an excavator on a barge?

21 MR. LESTER: Well, I'm not too familiar with
22 barge operations, but the current's pretty good along
23 that bank. I don't know if that would be a limitation.
24 But it's a possibility, if current wasn't an issue.

25 But there is pretty good land side access.

1 There's actually a road along the backside. So pretty
2 much a riparian strip right along -- there's a road,
3 the riparian strip, and then the rock. So.

4 PRESIDENT CARTER: Any other questions for
5 staff?

6 BOARD MEMBER RIE: Is this vegetation on
7 levees, or is this just a river bank?

8 MR. McGRATH: On the bank. There is no levees
9 in this area.

10 BOARD MEMBER RIE: Okay, thanks.

11 PRESIDENT CARTER: Any other questions?
12 What's the Board's pleasure? We'll entertain a motion.

13 VICE-PRESIDENT HODGKINS: I'll move approval
14 of the Resolution.

15 PRESIDENT CARTER: We have a motion to approve
16 Resolution 08-09 for the Woodson Bridge, Ecosystem
17 Restoration Project. Is there a second?

18 BOARD MEMBER BROWN: I'll second.

19 PRESIDENT CARTER: We have a second. Any
20 discussion? Mr. Punia, would you call the roll,
21 please.

22 EXECUTIVE OFFICER PUNIA: Board Member Butch
23 Hodgkins?

24 VICE-PRESIDENT HODGKINS: Aye.

25 EXECUTIVE OFFICER PUNIA: Board Member Teri

1 Rie?

2 BOARD MEMBER RIE: Aye.

3 EXECUTIVE OFFICER PUNIA: Board Member John
4 Brown?

5 BOARD MEMBER BROWN: Aye.

6 EXECUTIVE OFFICER PUNIA: Board Member Rose
7 Marie Burroughs?

8 BOARD MEMBER BURROUGHS: Aye.

9 EXECUTIVE OFFICER PUNIA: Board President Ben
10 Carter?

11 PRESIDENT CARTER: Aye. So the motion carries
12 unanimously. Thank you very much.

13 MR. McGRATH: Thank you, Board.

14 PRESIDENT CARTER: Okay.

15 On to Item 12, Sacramento River Bank
16 Protection Project. This is to consider adoption of
17 Resolution 08-10 approving Mitigated Negative
18 Declaration, Findings, and Mitigation Measures for the
19 Sacramento River Bank Protection Project, Lower
20 American River Mile one half Mitigation Site and
21 Construction of the Sacramento River Bank Protection
22 Project, Lower American River Mile one half Mitigation
23 Site.

24 Mr. Young?

25 MR. YOUNG: President Carter, Board Members

1 and staff. My name is Kip Young. I'm an environmental
2 scientist in the River Repairs program, and I am fairly
3 new, so I've only been here for about four months now.

4 I also have my project manager here, Deborah
5 Condon, who will be offering assistance so we can
6 answer any questions regarding some of the past work
7 that was done on this project.

8 PRESIDENT CARTER: I'm sorry, could you be
9 sure and speak up.

10 MR. YOUNG: Oh. The purpose of this project
11 is to establish the Lower American River Mile 0.5
12 Mitigation Site for unavoidable habitat loss to past
13 and future levee improvements in the Sacramento Bank
14 Protection Project.

15 And one of the past projects was, I'm sure you
16 guys remember, Sacramento River Mile 56.7. There
17 were some mitigation -- or mitigation was required for
18 the habitat loss in that project and that mitigation
19 was required by the Special Biological Opinion and
20 these were for lizard species.

21 Just a little bit of background for the Lower
22 American River project. The Board is the nonfederal
23 sponsor. And the Corps is the federal sponsor and also
24 the lead for the Sacramento Bank project.

25 SAFCA has provided technical assistance on

1 this project in the past. The reason why this project
2 is being started, the -- or the reason why this
3 mitigation is required is due to the Governor's request
4 or declaration of a state of emergency for the levee
5 items which went to the repair the -- the repair -- the
6 56.7 and also the -- this site at the lower American
7 River was chosen -- there were 21 sites that were -- 21
8 potential mitigation sites that provided a significant
9 opportunity to create aquatic riparian habitat without
10 excessive land cost and done by an interagency working
11 group which included Fish and Wildlife and Board
12 Members, DWR, and I believe maybe a couple other groups
13 too and also SAFCA.

14 The Lower American River site location -- the
15 north -- the site is located on the north bank of the
16 American River 0.5 miles from the confluence of the
17 Sacramento River. You notice to the west is Interstate
18 5. To the north is the developed areas within -- with
19 Discovery Park. To the east are protected habitat
20 areas in Discovery Park, and to the south is the
21 American River.

22 Existing conditions at the site, in 2001 there
23 was a high intense fire. The site was highly altered.
24 There are early hydraulic mining deposition material.
25 The floodplain is elevated. There is not -- there is

1 only connectivity to the American River during early
2 high flows and low conditions frequency. Riparian
3 vegetation is not responding. We don't have a lot of
4 measured growth in that area or it's taken a while for
5 growth to reestablish itself.

6 The site currently has forests, grasses,
7 trees, shrubs, such as blackberries. In the photo, you
8 can see some of the trees, some of the shrubs. There's
9 also -- I believe that's a Chinese pepper tree. And in
10 here you see all the gray materials spark this whole
11 area.

12 The mitigation site, the length is a thousand
13 feet of shoreline to create additional 1100 linear feet
14 of shoreline for -- for aquatic habitat, the list is 0
15 to 30 -- or 300 feet. The footprint of the newly
16 created area will be 3.6 acres. And it will be 5 acres
17 of elderberry transplants.

18 This is the project area, the staging area,
19 and to the north is the Garden Highway, the access
20 route for the staging area for the equipment, and the
21 American River Bike Trail, to get people oriented, and
22 Discovery Park.

23 So the transplant -- the elderberry
24 transplants in the project area, will be excavated as
25 of 2005 -- 31, and the area -- 94 plants in the total

1 project area, 31 that are in the excavated area and
2 elderberry transplants proposed for the project in
3 January and February 2009.

4 This is the elderberry location and the
5 project footprint and the elderberries outside of the
6 project area. And just going back, if you notice just
7 a little bit to the north and a little bit west, there
8 will be two transplant areas for the elderberries. The
9 elderberry transplants are Phase 1 of the project.

10 Phase 2 is the construction proposed for July
11 to December 2009. Approximately 60,000 cubic yards of
12 silt will be excavated. The bank will be lowered
13 approximately as low as four feet, typically between
14 six to 12 feet, and it will create variable slopes and
15 it's a 60 percent grading plan. You'll notice there is
16 two inlets in there and two coves so it will create
17 additional shoreline habitat for five species.

18 PRESIDENT CARTER: I'm sorry. What were we
19 looking at there?

20 MR. YOUNG: This is the grading plan. This is
21 currently fairly high above the surface, the surface of
22 the river. It will be lowered to approximately four --
23 to four feet. Those little bays and inlets will be
24 inundated during various flows.

25 PRESIDENT CARTER: So they're currently six to

1 12 feet and now we're lowering them to four --

2 MR. YOUNG: Currently a little bit higher than
3 that, those areas in between.

4 PRESIDENT CARTER: So you'll be taking up to
5 eight feet of silt out of there.

6 MR. YOUNG: Yeah. Also, part of this Phase 2
7 will be installation of material after it's excavated
8 in those inlets, and it will be configured to
9 recreational uses at Discovery Park and American River,
10 installation of brush mattresses for erosion control,
11 and this is vital technical revetment. Berry -- the
12 elevation for riparian wetland native plant
13 revegetation, and also the area will be installed with
14 an irrigation system.

15 And this is the planting plan and you will
16 notice the circles on there. Those are the estimated
17 locations of where the material will be. And you'll
18 notice there's different shading in that slide, and you
19 can see the various bunches that will be created and
20 zones for planting.

21 BOARD MEMBER BURROUGHS: I'm sorry; I didn't
22 hear what you said. What are the circles?

23 MR. YOUNG: The circles are just the material
24 which is the --

25 BOARD MEMBER BURROUGHS: I got it.

1 MR. YOUNG: Okay. So those are just
2 estimated. I don't know if they'll be -- they'll
3 probably be shored up on the design plan, but this is a
4 60 percent design plan and estimated locations. You'll
5 see those little coves, kind of protected, away from
6 the river and the bigger inlets. This is the water
7 side view, notice the mature riparian vegetation that
8 was burned out and a lot of blackberry on the banks
9 right now.

10 Also additional studies for this project were
11 performed, I believe in 2005. MBK Engineering
12 performed a 2D modelling analysis at velocities less
13 significant, less than 1.5 per second -- within the
14 project footprint itself and 0.5 to 1.3 per second
15 along the bank, and there's no significant increase or
16 decrease in water surface elevation along or in the
17 levees, it was less than a tenth of a foot.

18 Part of the environmental review for this
19 project, an EAIS proposed a mitigated Negative
20 Declaration and underwent public agency review December
21 14, 2007 to January 12, 2008. There is some minor
22 agency public comments from Caltrans and the Sacramento
23 Metropolitan Air Quality District. These were
24 addressed and revised into a final mitigated Neg Dec.

25 BOARD MEMBER RIE: Do we have copies of those?

1 MR. YOUNG: You have a copy -- I provided a
2 copy of that Neg Dec.

3 BOARD MEMBER RIE: There is no agency comments
4 attached.

5 MR. YOUNG: I didn't -- those responses are in
6 the final EAIS which I don't have a copy of it but the
7 Corps actually has a copy of it, and I can get you a
8 copy.

9 BOARD MEMBER RIE: I only bring it up because
10 the Resolution says the Board would --

11 MR. YOUNG: The comments were very minor.
12 There's some additional analysis was needed for the Air
13 Quality for additional mitigation the Corps was working
14 on, but the Corps, what -- the additional requirements
15 are still the same.

16 BOARD MEMBER RIE: What were the comments?

17 MR. YOUNG: I'd have to review that. I don't
18 know off the top of my head. I know they were fairly
19 minor.

20 BOARD MEMBER RIE: I just ask because it says
21 we reviewed the comments and we didn't get a copy.

22 PRESIDENT CARTER: And we haven't.

23 MR. YOUNG: Can you repeat the question again?
24 I have some support behind me.

25 PRESIDENT CARTER: Absolutely. Go ahead.

1 MR. BUCK: Chair Carter, Members of the Board,
2 Peter Buck, Sacramento Area Flood Control Agency.
3 Could you repeat the question?

4 BOARD MEMBER RIE: On the slide about half way
5 down it says there were comments from Caltrans and the
6 Air Board. So we were wondering what the comments were
7 because our Resolution says we reviewed those comments
8 and they're not included in our packets.

9 MR. BUCK: I'm stumped on that one too,
10 actually. I apologize. You know, I suspect it had to
11 do with the number of truck trips and excavation and
12 meeting air quality requirements.

13 In terms of Caltrans, the issue there --
14 actually, there's not an issue. There's no connection
15 to any of the road of any -- that is under any
16 jurisdiction of Caltrans. This is being conducted
17 entirely within Discovery Park on the water side of the
18 bike trail.

19 MR. YOUNG: In the past few months, we got
20 concurrence for the proposed project from Fish and
21 Wildlife and from NMFS that the project will not likely
22 have adverse effect on smelt and the valley elderberry
23 longhorn beetle and on green sturgeon and the critical
24 habitat.

25 Also there will be no impacts to social fish

1 habitat for salmon under the Magnuson-Stevens Act.

2 For post construction SAFCA will take
3 operation for an established period of three years.

4 So I'm asking the Board today to consider
5 approval of Resolution 08-10:

6 Now therefore be it resolved that the
7 Central Valley Flood Control -- Central
8 Valley Flood Protection Board acting in
9 its capacity as a CEQA Lead Agency
10 approve the mitigated Neg Dec, Findings,
11 Mitigated Measures for the Sacramento
12 River Bank Protection Project for the
13 Lower American River Mile 0.5 Mitigation
14 Site and approve construction for the
15 Sacramento River Bank Protection Project
16 Lower American River Site.

17 And I'd like to acknowledge Mr. Peter Buck and
18 thanks and my project manager Deborah Condon.

19 PRESIDENT CARTER: Are there any questions for
20 Mr. Young?

21 BOARD MEMBER BURROUGHS: I have one. On your
22 Resolution page 4, do you expect to find human remains?

23 MR. YOUNG: We did have a SHPPPO concurrence
24 also, and they didn't.

25 BOARD MEMBER BURROUGHS: I was pretty much

1 joking.

2 MR. YOUNG: I can have Peter speak on that.

3 MR. BUCK: Peter Buck again. I came this
4 afternoon to support Kip and ask for concurrence and
5 support on this Resolution.

6 We've been involved in planning this project
7 for about two years, two and a half years. This
8 particular mitigation site was identified in the
9 biological opinion that was issued for the Sac Bank
10 work that happened in the Pocket and at River Mile
11 56.7.

12 And if you recall, back in 2005, we were
13 anxiously awaiting the biological opinion from the
14 National Marine Fishery Service. And Stein Buer at the
15 time had just come to the agency and intervened on
16 behalf of the Flood Management Collaborative to get
17 that biological opinion issued.

18 And one of the commitments was that we were
19 going to build this site within 30 months after
20 groundbreaking at River Mile 56.7.

21 The planning team that's been involved in this
22 has been an interagency planning team. That included
23 Fish and Wildlife. That included National Marine
24 Fishery Service, all the partners here. So they have
25 been involved in the design right from the beginning.

1 They're very supportive of this.

2 Again, Kip pointed out that the notion here is
3 to maximize floodplain habitat recognizing that is one
4 of the most limiting habitat features in the Sacramento
5 River system because of the impacts of hydraulic mining
6 today relative to these banks.

7 So I think approving this will also send real
8 strong message back to Fish and Wildlife and NOAA
9 Fisheries that we're serious about doing this. It's a
10 good project. It's hydraulically neutral. We're
11 actually going to be excavating a lot of material out
12 of the the flood conveyance corridor. And there will
13 be some plantings, but as you can see from the slide on
14 hydraulic analysis, there's going to be no adverse
15 impacts from this.

16 We expect at some point too as the service
17 goes through their deliberation on the delisting of
18 VELB that the VELB issue will become less of an issue
19 for all of us. And that is -- I don't know what the
20 time line on that is, but that is happening.

21 And with respect to the cultural resources, we
22 actually went beyond the standard of culture
23 investigations at this recognizing that there was a
24 historic resource in fairly close proximity. I don't
25 want to get specific because there's a lot of

1 sensitivity around this kind of thing.

2 But our consultant found no additional --
3 actually there were no resources found within the
4 footprint. So.

5 BOARD MEMBER BURROUGHS: Also, you're planning
6 on putting signs up every 50 feet. Is that just
7 temporary while you're doing restoration or is that
8 going to be permanently left there?

9 MR. BUCK: That will be permanent. It's just
10 a requirement by the Fish and Wildlife Service. I
11 think those things are negotiable. Certainly the Parks
12 Department which owns the property would not want to
13 see extensive signage there. Certainly some
14 interpretive signage I think is appropriate, and Parks
15 will do that.

16 BOARD MEMBER BURROUGHS: That's the only
17 concern I have is whether or not it had to be permanent
18 to keep people off. Thank you.

19 PRESIDENT CARTER: Any other questions?

20 BOARD MEMBER RIE: Yes. Did you guys bring a
21 copy of the initial study?

22 MR. YOUNG: I do have a draft copy. I don't
23 have a final copy.

24 BOARD MEMBER RIE: Okay. Again, the
25 Resolution says we've reviewed the initial study. We

1 don't have a copy.

2 MR. YOUNG: Okay.

3 PRESIDENT CARTER: You understand our position
4 here? You are asking us to do something that we
5 physically cannot do.

6 MR. YOUNG: I understand.

7 PRESIDENT CARTER: With an incomplete staff
8 report and incomplete materials, the Board -- we can't
9 do it. Because we haven't. We can't say we did and
10 not do it.

11 MR. YOUNG: I understand.

12 PRESIDENT CARTER: So.

13 BOARD MEMBER BURROUGHS: Unless we take that
14 part out.

15 PRESIDENT CARTER: What's the pleasure of the
16 Board? Any other questions, comments?

17 BOARD MEMBER BURROUGHS: If we could take that
18 part out and move forward, I would be comfortable with
19 that.

20 PRESIDENT CARTER: What is your -- you're
21 making a motion?

22 BOARD MEMBER BURROUGHS: I make a motion to
23 accept it with the changes that reflect what we have
24 been able -- that we have not viewed that. So maybe --

25 PRESIDENT CARTER: Well, Item 1 is consider

1 option of Resolution 08-10 approving the mitigated
2 Negative Declaration. We haven't seen that.

3 Making findings. I don't know how we can make
4 findings if we haven't seen the environmental
5 documentation.

6 And mitigation measures for the Sacramento
7 River Bank Protection Project. We have a listing of
8 the mitigation measures here.

9 DEPUTY ATTORNEY GENERAL CAHILL: You have the
10 mitigated negative declaration. It has the Finding
11 incorporated in it.

12 You have mitigated negative declaration on
13 page 2, second paragraph says Findings:

14 An initial study has been prepared to
15 assess the proposed project's potential
16 effects on the environment and the
17 significance of those effects. Based on
18 the initial study, the Central Valley
19 Flood Protection Board has determined
20 the proposed project would not have any
21 significant effects on the environment
22 once mitigation measures are
23 implemented.

24 That's your almost usual mitigation statement.

25 BOARD MEMBER RIE: But on page 4, it says

1 Approval of Initial Study slash Mitigated Neg Dec.

2 DEPUTY ATTORNEY GENERAL CAHILL: What
3 paragraph?

4 BOARD MEMBER RIE: Page 4.

5 DEPUTY ATTORNEY GENERAL CAHILL: Right. So if
6 you take out the line that says I approve this project,
7 which is appearing over the Executive Officer's
8 signature, the Board by adopting the Resolution is
9 adopting this mitigated Neg Dec document.

10 BOARD MEMBER RIE: Don't we need to approve
11 the initial study?

12 DEPUTY ATTORNEY GENERAL CAHILL: No. You only
13 need to approve the mitigated negative declaration.

14 BOARD MEMBER RIE: Okay.

15 MR. YOUNG: Which is a summary of the initial
16 study.

17 DEPUTY ATTORNEY GENERAL CAHILL: Actually, we
18 probably should have seen the initial study.

19 BOARD MEMBER BURROUGHS: Could you give us
20 direction on what we can do?

21 DEPUTY ATTORNEY GENERAL CAHILL: Could
22 someone -- I mean, I hate to have you put this off for
23 a month. So could someone here on staff get and copy
24 the initial study, bring it back, the Board can come
25 back to this Item.

1 BOARD MEMBER BROWN: Is the staff ready?

2 MR. YOUNG: I have a copy of the draft.

3 BOARD MEMBER RIE: We could table this.

4 DEPUTY ATTORNEY GENERAL CAHILL: Until the end
5 of the meeting, and including the two agency comments.

6 You don't need a written response to comments.
7 What you need is for the Board to see the comments or
8 for staff to describe what they are and to explain what
9 the -- how you're dealing with them, how you are able
10 to proceed notwithstanding the comment.

11 So you don't need a written response to
12 comments document like you do in an Environmental
13 Impact Report. All you need is to consider them to
14 decide they don't change your conclusions in the
15 documents.

16 PRESIDENT CARTER: So does anybody out there
17 on staff know what the comments were? Because we asked
18 that question before.

19 MR. YOUNG: I don't have the Transportation
20 comments.

21 MS. CONDON: I believe routinely --

22 PRESIDENT CARTER: Could you come forward and
23 introduce yourself for the record.

24 MS. CONDON: I'm sorry. President Carter,
25 Members of the Board, I'm Deborah Condon, the

1 Environmental Program Manager for the levee repairs
2 project.

3 And I recall that Caltrans sent for --
4 requested a traffic management plan which is something
5 that I've gotten often from them. And the traffic
6 management plan basically asks for more a detailed
7 report on egress and ingress to the site and the number
8 of trucks. And I'm pretty certain that was one of
9 the -- that was sent last December, I think, during the
10 reading period.

11 The Air Quality Board management board
12 comments I'm not sure of.

13 MR. YOUNG: I do have the comments.

14 PRESIDENT CARTER: Could you read them or
15 describe them or read them? Tell us what they were.

16 MR. YOUNG: Air quality mitigation measure
17 3.6-3, on page 3, it should exclude the language
18 pertaining to control devices and include more detail
19 on air quality mitigation listed on the EAIS, pages 40
20 to 41. Which I did. I did that, did address for the
21 mitigated Neg Dec. So that has the changes, and you do
22 have that right now.

23 Local air quality significant thresholds for
24 ROG and PM-10 are incorrectly referenced on page 38.
25 There are no ROG thresholds. Table 6, on page 36 of

1 the EAIS uses incorrect thresholds noted above to
2 compare project emissions and make significant
3 determinations.

4 Please assure emission estimates take into
5 account the statement last paragraph page 3 of the EAIS
6 indicating equipment usage estimated at eight hours and
7 the statement first page, paragraph 40 that the barge
8 cranes will operate 12-hour shifts.

9 Appendix 8 shows summary page from road
10 construction emissions model for the project, the data
11 input sheet from the model run should be included in
12 the final EAIS to disclose the assumptions used in the
13 estimated emissions.

14 The District appreciates that the mitigation
15 fee estimate was included in the EAIS on page 40, but
16 would like to know the estimates -- the estimate
17 that -- does not appear to take into account 20 percent
18 nitrogen emission reductions that should be obtained
19 from off duty -- or off -- heavy duty off road vehicles
20 per the first bullet and mitigation measure 3.6.3 and
21 the District recommends a bullet be added to mitigation
22 measure 3.6.3 to limit unnecessary idling of
23 diesel-powered engines to five minutes or less.

24 All projects to applicable District rules in
25 effect at the time of construction, attachment outlined

1 some of those rules provided in your information. For
2 details on these and District rules, please refer to
3 airquality.org.

4 PRESIDENT CARTER: Everybody hear and
5 understand that? Okay. So that covers the two
6 comments to the environmental documentation.

7 So what's the Board's pleasure.

8 BOARD MEMBER RIE: I move we table this to the
9 end of the meeting.

10 PRESIDENT CARTER: Okay. Is there a second?

11 VICE-PRESIDENT HODGKINS: I'll second that.
12 That's subject to the them furnishing the study?

13 PRESIDENT CARTER: Right.

14 VICE-PRESIDENT HODGKINS: Somebody ought to
15 find the initial study and get --

16 DEPUTY ATTORNEY GENERAL CAHILL: She has it.
17 She's taking it out to be copied right now. It should
18 be back.

19 PRESIDENT CARTER: Okay. Very good. So we'll
20 go ahead. Are there any objections to tabling this
21 item till we get the initial study and have a chance to
22 look at it? We'll plan on revisiting this later on
23 today, later on this afternoon. Thank you.

24 BOARD MEMBER RIE: Did we vote on that?

25 PRESIDENT CARTER: I just asked if there were

1 any objections, and hearing none, we'll table it.

2 BOARD MEMBER RIE: I missed that. Sorry.

3 PRESIDENT CARTER: Okay. Moving on to Item
4 13, Rehabilitation Projects RD 765 and RD 150.

5 Ms. Condon, good afternoon.

6 MS. CONDON: Good afternoon, President Carter,
7 Members of the Board, and staff.

8 I'm here to ask for a CEQA determination on
9 these two repair projects and also give a very brief
10 history of how they came before the Board. I'm here to
11 present the PL84-99 repair project, the RD 150 and 765.

12 PL84-99 is a federal law that gives the Corps
13 legal authority to supplement local efforts to repair
14 flood control projects that are damaged by floods.
15 Those are federally declared floods.

16 The Central Valley Flood Protection Board is
17 the local sponsor under our local cooperative agreement
18 for this federal program.

19 These two sites are some of the remainder
20 sites that resulted from the 2005-2006 devastating
21 floods that struck northern California and Nevada late
22 December 2007 and January 2006.

23 These red -- the red dots are levee breaches
24 or overtoppings. The yellow are -- let me see -- boil
25 seepages or erosion. So this is just the first storm.

1 The 2006 storm, both President Bush and
2 Governor Schwarzenegger issued emergency declarations,
3 disaster declarations. The federal one was issued for
4 31 California and six Nevada counties for severe
5 storms, flooding, and mudslides and landslides.

6 The project -- PL84-99, the Corps sponsors
7 sent out a notice to the State, and from the State --
8 from the Rec Board to the RD seeking request for
9 rehabilitation assistance for those projects damaged.

10 Water remained high during the application
11 period which was extended till April 3rd.

12 Waters rose again in April extending into June
13 in some parts of the system, and a second public notice
14 was issued June 16th.

15 43 requests for more than 300 sites in 31 RDs
16 and MAs in the state of California and state of Nevada
17 were received.

18 DWR, the Corps, and RDs personally inspected
19 all 300-plus sites. Additional site visits were made
20 in August and September for the April flood events.

21 Sites were categorized into five orders of
22 severity. Order 1 and 2, the only difference being one
23 is urban and one is rural, fell under the Governor's
24 Declaration of Emergency.

25 Order 3s are ones that are not -- that may

1 extend into the flood season but are not likely to lead
2 to breaches.

3 Order 4 and 5 are less severe than -- Order 1
4 and 2 are the most severe and most critical; 3, 4, and
5 5 tend to be grouped together and are less severe.

6 The status as of now is during 2006 and 7
7 under the Emergency Declaration 40, Order 1 sites were
8 completed and in unprecedented action, the State of
9 California paid for 21 to be repaired. It's typically
10 a 100 percent federal cost. Seven Order 2 were
11 repaired.

12 We're going forward into 2008, repairing 22
13 Order 2 sites that were not eligible because of low BC
14 ratios, the Corps reexamined and deemed eligible.

15 And then the large bulk of remaining sites, or
16 133 Order 3, 4, and 5 sites, Corps funded except for
17 one betterment to the Lower San Joaquin Levee District.

18 RD 765 has five Order 3 sites. RD 765 is
19 across the river from the Pocket Area of Sacramento.

20 RD 150 has six Order 2 sites. These are sites
21 again that were deferred because of low BC ratio that
22 became eligible again and has had 11 Order 3, 4, and 5
23 sites.

24 Most of the Order 2 sites are clustered
25 immediately south of Clarksburg. At the very top of

1 the map is the town of Clarksburg.

2 Quite a few sites in RD 150 were determined
3 not to eligible -- those are the ones along Elk
4 Slough -- because of lack of maintenance by the local
5 maintaining agency.

6 RD 765 damage is mostly loss of existing rock
7 and wave wash damage, and PL84-99 only allows repair
8 that returns the site to what it was in a pre-flood
9 condition.

10 Typical RD 150 sites were more severe. The --
11 but they range -- there is quite a range. On the
12 top -- I guess that's -- yeah. The top left is mostly
13 just a pocket and wave wash, but the one on the right
14 shows quite extensive damage, shear cuts.

15 So there are 17 of those sites and different
16 levels of severity.

17 The proposed repair design differs depending
18 upon severity. Quite a few them are just restoring
19 back with impervious soil and rock face. There are
20 some sites that require much more excavation, compacted
21 soil, and much more extensive repair.

22 All the sites will willow pole cuttings along
23 the toe and be reseeded with native grasses. The
24 willow pole cuttings are a huge bang for your buck in
25 the kind of benefits they provide for fisheries

1 resources and the green light we kind of get from the
2 resource agencies for doing that because they balance
3 out any temporary impacts from the repair.

4 The special status species that are of concern
5 in the area are mostly the salmonid species. Delta
6 smelt range all the way up to the City of Sacramento so
7 they are also considered a species of concern.

8 There were some elderberry bushes.

9 Most of the avoidance will be doing the
10 construction outside the windows when you expect the
11 fish to be there. That in some way is why we're still
12 here in 2008 still doing repair.

13 The work window to do all this construction is
14 so small that the emphasis was on repairing first the
15 Order 1 and 2 sites, and these 3 sites have only come
16 about much later.

17 Another issue is the Corps didn't receive
18 funding for Order 3, 4, and 5 sites until 2007, May of
19 2007. The 30-day CEQA review period closed May 14.

20 We did receive one comment from the State
21 Lands Commission asking us to consider greenhouse gas
22 effects by the project. We will be doing assessments
23 to satisfy the Yolo Air Quality Management District.

24 However, Caltrans projects and projects funded
25 by -- basically we have considered the comments on

1 greenhouse gases, and we think they're addressed
2 through the existing Air Quality Management Plan.

3 Department of Fish and Game called us up
4 verbally. They did not send written comments. They
5 wanted to make sure that we provided them with all bird
6 surveys for state listed birds, and we are complying
7 with that.

8 That was the extent of our comments.

9 I would like to request that the Board -- this
10 is the original language of the declaration. Item
11 number 3 has changed to "approve the project."

12 Originally, the language asked to delegate
13 authority for acquisition of property interests, and I
14 believe that the General Manager has that authority.

15 So the first two agenda items are to adopt
16 Mitigated Negative Dec Findings and Mitigation Measures
17 for PL84-99 levee rehabilitation projects in
18 Reclamation District 765 and adopt the Mitigated
19 Negative Declaration Findings and Mitigation Measures
20 for PL84-99 in levee rehabilitation projects in
21 Reclamation District 150 and approve the project.

22 PRESIDENT CARTER: Thank you.

23 MS. CONDON: And are there any questions? I'm
24 sorry.

25 PRESIDENT CARTER: Are there any questions for

1 Ms. Condon?

2 BOARD MEMBER BURROUGHS: How much land do you
3 think you'll need to acquire?

4 MS. CONDON: We won't have to acquire any
5 land. All these are water sites. Either the Board has
6 the -- already has existing rights, so there's no land
7 acquisition.

8 There are temporary entry permits, and we have
9 most of the rights to the land because most of these
10 are -- they're not very high up the slope, either the
11 toe of the levee or half way up the slope.

12 So as far as I know, there is no land
13 acquisition involved.

14 BOARD MEMBER BURROUGHS: You mentioned earlier
15 in your presentation that for the PL funding that the
16 levees need to be restored to their original design?

17 MS. CONDON: Actually, not original design.
18 It's pre-flood condition. Because a lot of these were
19 designed many years ago and have lost, have slumped and
20 lost a lot of their original profiles. But this is
21 pre-flood.

22 BOARD MEMBER BURROUGHS: Is there a -- in
23 repairing the levees, is there a design that creates
24 new habitat and restoration? You mentioned the
25 willows, but --

1 MS. CONDON: Yeah. One of the issues is the
2 program does not have any funding for any sustained
3 irrigation or watering efforts, so that limits the
4 kinds of actions you can do.

5 The willow pole plantings are actually going
6 to be a separate contract that will be carried out in
7 the fall when they have much higher chance of being
8 successful. We won't be planting in the middle of
9 summer.

10 So our landscape -- the Corps landscape
11 architects have recommended that for maximum success
12 that they be planted in the fall.

13 But that's pretty much the -- most of these
14 sites are along Delta levees that really have little or
15 no habitat to begin with. This certainly doesn't --
16 this picture probably shows a very -- a levee with a
17 very large berm. But most of them are rock and kind of
18 shrubby habitat.

19 So no, there's not an extensive restoration
20 plan because there is no ability to water it, and the
21 success would not be very good.

22 In some of the lower sites, they will be
23 replacing reeds where you have -- we have more sites on
24 Cache Slough and that area, and they will be replacing
25 reeds.

1 And also any tree on these sites larger
2 than -- with a diameter larger than four inches will be
3 protected in place so there won't be extensive tree
4 cutting.

5 BOARD MEMBER BURROUGHS: Thank you.

6 MS. CONDON: You're welcome.

7 PRESIDENT CARTER: Any other questions for
8 Ms. Condon?

9 BOARD MEMBER RIE: This is a question for
10 legal staff.

11 The last page of the mitigated Neg Dec, the
12 approval page. Do we need to change the wording of
13 that first paragraph: In accordance with Section
14 21082.1 CEQA.

15 DEPUTY ATTORNEY GENERAL CAHILL: I'm still
16 trying to find where you are.

17 BOARD MEMBER RIE: There's no page number. On
18 the signature page of the mitigated negative
19 declaration, last page.

20 DEPUTY ATTORNEY GENERAL CAHILL: Okay. And --

21 PRESIDENT CARTER: Which agreement? There is
22 one for RD 150 and one for 765.

23 BOARD MEMBER RIE: There is?

24 PRESIDENT CARTER: I believe so. Yeah. May
25 be the same.

1 BOARD MEMBER RIE: The first one I'm looking
2 at for Reclamation District 150. The last page of the
3 mitigated Neg Dec, the signature sheet.

4 DEPUTY ATTORNEY GENERAL CAHILL: Yes.

5 BOARD MEMBER RIE: Do we need to change that
6 first paragraph, first sentence -- did you find it?

7 DEPUTY ATTORNEY GENERAL CAHILL: I see it.

8 BOARD MEMBER RIE: In accordance with section
9 21082.1, the Central Valley Flood Board -- do we need
10 to change that to say the Board has independently
11 reviewed and analyzed the initial study?

12 DEPUTY ATTORNEY GENERAL CAHILL: Yes, we
13 should take the word "staff" out. And I would also
14 eliminate the line that says: I hereby approve this
15 project because we don't want the General Manager
16 approving the project.

17 BOARD MEMBER RIE: Okay.

18 DEPUTY ATTORNEY GENERAL CAHILL: Although you
19 can delegate to him the ability to sign the Neg Dec.
20 Once you've approved it, he can sign it.

21 BOARD MEMBER RIE: Okay. But if we make those
22 technical changes, it will be fine?

23 DEPUTY ATTORNEY GENERAL CAHILL: Yes, that
24 will be fine. When it's drafted, it is only staff
25 that's reviewed it.

1 BOARD MEMBER RIE: I don't have any further
2 comments.

3 MS. CONDON: Thank you.

4 PRESIDENT CARTER: Any other questions for
5 Ms. Condon, staff? Okay. We'll entertain a motion.

6 BOARD MEMBER RIE: I move to approve the
7 Resolution 08-11 with the technical legal modifications
8 proposed by Legal Counsel for the approval of the
9 initial study mitigated Negative Declaration.

10 PRESIDENT CARTER: For both Reclamation
11 Districts?

12 BOARD MEMBER RIE: For both Reclamation
13 Districts.

14 BOARD MEMBER BURROUGHS: Second.

15 PRESIDENT CARTER: We have a motion and
16 second. Any further discussion?

17 BOARD MEMBER BURROUGHS: Just -- I'd like to
18 just ask this question because we've been working on it
19 with the Corps. Is there any problem about now that
20 we're repairing levees, about placing trees back on the
21 levees when the Corps's standard doesn't allow them?

22 MS. CONDON: The Corps is the project --
23 contracts the project and has made that recommendation
24 that the willow be placed there.

25 BOARD MEMBER BURROUGHS: Could I have that in

1 writing?

2 MS. CONDON: Yeah, I think there's some
3 question over whether a lot of the maintenance is the
4 first twenty feet below the crown. I think that's been
5 kind of the standard, and the willow will be much
6 lower.

7 So I think it's still unclear where that
8 policy ends but there's discussion about the first
9 twenty feet below the crown, and these are way below
10 that. So, you know.

11 BOARD MEMBER BURROUGHS: But that the planting
12 is per the Corps's recommendation?

13 MS. CONDON: Per the Corps's recommendation.

14 BOARD MEMBER BURROUGHS: Get that on the
15 record.

16 (Laughter)

17 BOARD MEMBER RIE: That's the regulatory
18 branch of the Corps?

19 BOARD MEMBER BURROUGHS: Right.

20 MS. CONDON: Well, yes, it is. Not civil
21 works. It's the -- I think PL84-99 is in the emergency
22 response wing. I think the regulatory --

23 BOARD MEMBER BURROUGHS: The --

24 BOARD MEMBER RIE: The regulatory branch likes
25 to see the trees on the levees?

1 MS. CONDON: Well, I think they want to see
2 them high up on the levee. I think it's still to be
3 determined.

4 PRESIDENT CARTER: Suffice it to say there's
5 some ambiguities as to exactly what that standard is,
6 and how it's applied, and who actually follows it.

7 PRESIDENT CARTER: Okay.

8 MS. CONDON: Absolutely.

9 PRESIDENT CARTER: Any other further
10 discussion? Mr. Punia, would you call the roll,
11 please.

12 EXECUTIVE OFFICER PUNIA: Board Member John
13 Brown?

14 BOARD MEMBER BROWN: Aye.

15 EXECUTIVE OFFICER PUNIA: Board Member Rose
16 Marie Burroughs?

17 BOARD MEMBER BURROUGHS: Aye.

18 EXECUTIVE OFFICER PUNIA: Board Member Butch
19 Hodgkins?

20 VICE-PRESIDENT HODGKINS: Aye.

21 EXECUTIVE OFFICER PUNIA: Board Member Teri
22 Rie?

23 BOARD MEMBER RIE: Aye.

24 EXECUTIVE OFFICER PUNIA: Board President Ben
25 Carter?

1 PRESIDENT CARTER: Aye.

2 Let the record reflect the motion carries
3 unanimously. Thank you very much.

4 If there is no objection from board or staff,
5 I've had a request to go to Item 15, hearings, before
6 we do Item 14. Are there no objections by any member
7 of the Board or staff or the public if we do that?

8 BOARD MEMBER BURROUGHS: No.

9 DEPUTY ATTORNEY GENERAL CAHILL: No objection.

10 PRESIDENT CARTER: Okay.

11 Then what we'll do is move to Hearings on the
12 agenda. It says none; but as you recall, we moved Item
13 7N from the Consent Calendar to Hearings.

14 This is permit number 18259 Caltrans District
15 10 to consider approval of Permit No. 18259 to widen
16 existing Interstate 205 bridges across Tom Paine Slough
17 and Paradise Cut.

18 Is there a member of the staff that wishes to
19 make a recommendation on this? I would note that the
20 Board did not have a staff report in the Board packet,
21 and we do not have any materials at this point.

22 EXECUTIVE OFFICER PUNIA: Because it was
23 assigned to Steve Dawson but he's sick today. So Gary
24 will present the best information he has on this part.

25 PRESIDENT CARTER: I should -- I was remiss.

1 I should note that we are -- forgive me. Let me get
2 organized here.

3 I'd like to call the hearing to order. On the
4 Permit Number 18259. And just want to review the
5 process here.

6 The Board staff makes a recommendation or
7 makes a presentation identifying what the application
8 is, describing the proposal, summarizing the
9 recommendation.

10 There's an opportunity for the public to
11 testify, the applicant -- which in this case I guess is
12 Caltrans -- also any people supporting or opposing the
13 application.

14 There will be opportunities to rebut that by
15 the applicant.

16 Board staff can then respond.

17 Then we'll close public testimony, the Board
18 will deliberate and discuss and make a decision.

19 So that's the process in these hearings. So
20 Mr. Hester, please proceed with the staff presentation.

21 CHIEF ENGINEER HESTER: Thank you. Gary
22 Hester, Chief Engineer of the Board.

23 This item was placed on the agenda with the
24 hopes that we would have the information available for
25 the Board to actually take action on it.

1 The description, it's two bridges, one bridge
2 that has already been built across Tom Paine Slough and
3 one bridge that has not been built over Paradise Cut.

4 The applicant is Caltrans. They had asked us
5 to originally try to get this on the April agenda, and
6 we were at that time awaiting endorsements from the
7 local districts. There are three Reclamation Districts
8 that have jurisdiction over the two bridges.

9 In the intervening month, and basing this
10 largely on conversations rather than actually having
11 prepared information to go on, we received endorsements
12 from the district.

13 Mr. Dawson had some issues with what was
14 actually -- what that endorsement consisted of. There
15 was some question in his mind whether -- in one case,
16 one of the Reclamation Districts had submitted what I
17 believe was either a temporary entry permit for
18 construction with some attached restrictions and legal
19 conditions associated with that permit.

20 What he was really looking for was something
21 slightly different, and he was in the process of trying
22 to contact those Reclamation Districts yesterday to get
23 at least a verbal endorsement of the project.

24 That was one issue that I'm aware of.

25 The other issue we talked about yesterday was

1 we do not have the Corps letter of approval. As I
2 understand it, Mr. Dawson did not anticipate any
3 technical issues that the Corps was going to raise.
4 Nonetheless, we did not have the Corps letter of
5 approval.

6 We decided to give him the sense of urgency
7 for the applicant to continue to try to move forward
8 with that and get that information to the Board in time
9 for today's meeting, but we do not have that.

10 So that's a quick summary, basically based on
11 my conversations with Steve Dawson yesterday.

12 PRESIDENT CARTER: Okay. Any questions of
13 staff? Okay. Mr. Punia?

14 EXECUTIVE OFFICER PUNIA: I think just as
15 Gary's saying, I just want add that in my discussion
16 with Steve Dawson, he informed me that he doesn't have
17 any technical issue.

18 It's just administrative issues are still
19 pending, that we haven't received the Corps letter, and
20 we don't have the endorsements in the form we usually
21 get from the local RDs.

22 But the Caltrans representative, Laura Lynn
23 Gordon, is here. They are insisting they will lose a
24 substantial amount of money if we do not grant them a
25 permit at this time.

1 So we are just exploring options if the Board
2 can delegate that once we have all the pieces that the
3 staff can issue the permit to the applicant so that
4 they can move ahead with the construction.

5 PRESIDENT CARTER: Might we hear from the
6 applicant at this time?

7 MS. GORDON: Good afternoon, President Carter,
8 Board Members.

9 Forgive me. I've never done this before, and
10 I wasn't expecting -- I was just coming to see what was
11 going on.

12 This permit is for a bridge widening 205 where
13 it intersects Highway 5.

14 PRESIDENT CARTER: Could you -- I'm sorry to
15 interrupt. Could you just introduce yourself for the
16 record?

17 MS. GORDON: I'm sorry. Laura Lynn Gordon,
18 Construction Engineer for Caltrans. I told you I've
19 never done it before.

20 Just a brief history. Within the design
21 process, for whatever reason, we missed obtaining this
22 permit.

23 This project is \$70 million, was put out to
24 bid the construction. We actually started the widening
25 of the Tom Paine Bridge before it was brought to our

1 attention that we -- this permit was required.

2 We started the process last June and stopped
3 the widening on the Paradise Cut Bridge in order to
4 obtain this permit.

5 It's been a kind of arduous process. I don't
6 think there was any issues. We provided the Corps with
7 all the information they required.

8 This project is already -- this delay has
9 already cost the State about \$1 million. To lose the
10 construction -- we also have a very short construction
11 window because of the riparian brush rabbit and the
12 giant garter snake. We are limited to construction
13 between May 1st and October 1st.

14 So we won't be able to -- if we get pushed off
15 much longer, we won't be able to construct our
16 foundation work in order to get out of the creek this
17 construction season. We lose a whole year.

18 The time-related overhead costs on the project
19 are \$2,200 a day. If we delete this structure, we lose
20 the next project at Mossdale which would allow the
21 continuation of the three lanes from 205 onto 5,
22 mitigating a huge traffic concern in that area.

23 All the studies, all the reports, impact
24 reports, have been done based to this bridge being
25 three lanes. Without that, we have the potential to

1 lose that \$25 million in funding for that project as
2 well.

3 So I'm here just to throw myself on your
4 mercy. It's at this point, dollarwise, very critical
5 in my budget to be able to complete this project to be
6 able to start as soon as possible.

7 And if you could allow the authority to be
8 delegated Mr. Punia or whoever the authority is, then
9 we don't have to wait till June.

10 It would significantly help.

11 When you widen a bridge, you have to build
12 half, then there's a settlement period and days that
13 things have to sit. We just will not have the time,
14 with the environmental window we have, to complete the
15 bridge.

16 Any questions?

17 BOARD MEMBER BROWN: No, but that was pretty
18 good for some extemporaneous talking.

19 (Laughter)

20 MS. GORDON: Thank you.

21 PRESIDENT CARTER: Any question?

22 BOARD MEMBER BURROUGHS: How many total days
23 is this project do you anticipate -- have you budgeted
24 to complete the bridge?

25 MS. GORDON: The bridge was supposed to

1 originally be completed in two construction seasons, so
2 from May 1st to October 1st, two seasons, however many
3 working days that is.

4 We've already lost last year, so we will be
5 bumping into next year when we remove the falsework and
6 everything.

7 We do have the -- what we have from the local
8 Reclamation Boards is we have encroachment permits from
9 the three boards that are effected, and that's what we
10 thought we were required to obtain.

11 And then we found out we also needed a
12 signature endorsement.

13 BOARD MEMBER RIE: I have a question for
14 staff. Is this the type of permit that the Chief
15 Engineer would administratively process and sign? Is
16 this something that back in the old days you would even
17 bring before the Board?

18 EXECUTIVE OFFICER PUNIA: No. Previously,
19 these type of permits we handle at a staff level.

20 BOARD MEMBER RIE: So the only reason we're
21 here talking about it is because of the new legislation
22 and evidentiary hearings.

23 EXECUTIVE OFFICER PUNIA: That's correct.

24 BOARD MEMBER RIE: Otherwise, you would have
25 approved this long ago?

1 EXECUTIVE OFFICER PUNIA: At a staff level
2 when we have all the information, our coordination with
3 the Corps, and the local districts finished, then we
4 will be issuing the permit.

5 BOARD MEMBER RIE: Okay.

6 EXECUTIVE OFFICER PUNIA: And may I -- I had a
7 lengthy discussion with Caltrans District 10 director,
8 and he pleaded this case and asked me that on his
9 behalf I make a request to the Board to, some fashion,
10 keep this project moving.

11 PRESIDENT CARTER: Okay.

12 VICE-PRESIDENT HODGKINS: I think, you know,
13 it's important for both of us to recognize that we've
14 got to be careful and make sure we're meeting the needs
15 of each.

16 And I bring that up because sometimes
17 Caltrans, I understand, has been very good to work
18 with; other times it's been difficult.

19 So it's a two-way street. And with that, I
20 will move --

21 PRESIDENT CARTER: We can't do that quite yet.

22 VICE-PRESIDENT HODGKINS: Oh.

23 PRESIDENT CARTER: We're not to that point yet
24 in the process. I'm sorry.

25 VICE-PRESIDENT HODGKINS: That's right.

1 PRESIDENT CARTER: Okay. Any other questions
2 of the applicant? Thank you very much.

3 Are there any persons out there in the public
4 that wish to speak in support of the project? Any
5 additional folks?

6 Anyone out there wish to speak in opposition
7 of the project? Okay.

8 Anybody want to speak just on general
9 principle? Very good.

10 I assume, given that, there's no rebuttal by
11 the applicant.

12 Does board staff have any additional comments
13 they'd like to make?

14 BOARD MEMBER BURROUGHS: Only comment is, when
15 you can, plant some wildflowers along the highway.
16 Sure is pretty.

17 MS. GORDON: We have done that a lot.

18 PRESIDENT CARTER: Okay. No other testimony
19 for the Board.

20 At this point, I'll close the public testimony
21 portion of this hearing.

22 Any comments from the board? Any questions of
23 anyone? All right.

24 Applicant, do you wish to make any parting
25 remarks?

1 MS. GORDON: Thank you very much for your
2 consideration, and I'm sorry for my non-knowledge of
3 procedure, but thank you.

4 PRESIDENT CARTER: Okay. Thank you.

5 Mr. Hodgkins, I think we're ready for you.

6 VICE-PRESIDENT HODGKINS: Okay. I move that
7 the Board approve Caltrans the necessary encroachment
8 permit, and that execution of the permit be delegated
9 to the General Manager at such time as he's received
10 and addressed any concerns raised by either the Corps
11 of Engineers or the local maintaining agencies,
12 Reclamation Distribution, involved with this project.

13 PRESIDENT CARTER: Okay.

14 BOARD MEMBER RIE: Second.

15 PRESIDENT CARTER: We have motion and second.
16 Any other questions, discussion about motion?

17 Mr. Punia, would you call the roll, please.

18 DEPUTY ATTORNEY GENERAL CAHILL: First, I'm
19 curious to know what we've done on CEQA for this
20 permit.

21 SENIOR ENGINEER BUTLER: I have the answer.
22 Eric Butler, Staff Engineer for the Board.

23 As part of the preparation for the staff
24 report which was withheld from your package because we
25 didn't anticipate bringing it forward today, I did

1 review Caltrans' negative declaration with mitigation
2 measures, reviewed it a little bit with Ginny.

3 And we were as part of the recommendations
4 going to recommend that you adopt their Negative
5 Declaration with their mitigation measures.

6 So from the CEQA perspective, staff is
7 comfortable with the work Caltrans has done, and we
8 would recommend that you are able to move forward with
9 respect to CEQA on this project.

10 PRESIDENT CARTER: Okay. Caltrans is the Lead
11 Agency on CEQA?

12 SENIOR ENGINEER BUTLER: That is correct.

13 PRESIDENT CARTER: So we're the Responsible
14 Agency, actually.

15 SENIOR ENGINEER BUTLER: Yes.

16 PRESIDENT CARTER: Okay. Ms. Cahill, does
17 that action -- is that action inclusive in the motion
18 that was made in terms of delegation of authority to
19 the General Manager to execute the documents upon
20 resolving any potential issues with the Corps or
21 Reclamation Districts as moved?

22 DEPUTY ATTORNEY GENERAL CAHILL: The problem
23 is, the Board's not reviewed the environmental
24 documents.

25 PRESIDENT CARTER: Okay. The Board staff has

1 indicated they have reviewed the mitigated negative
2 declaration. Do we have to make findings as a
3 Responsible Agency?

4 DEPUTY ATTORNEY GENERAL CAHILL: Yes, as
5 Responsible Agency, you have to find that the project
6 could have had significant impact; that you have
7 reviewed independently the Negative Declaration; and
8 that you find that the project might have significant
9 impact, but because of mitigation measures
10 incorporated, it will not have significant impact.

11 PRESIDENT CARTER: So under the -- as we
12 discussed earlier under the old process where typically
13 Board staff did that, we're saying now Board staff is
14 not able to do that, that the Board delegates that
15 authority?

16 DEPUTY ATTORNEY GENERAL CAHILL: In the CEQA
17 guidelines, Section 15025, it says a public agency may
18 assign specific functions to its staff to assist in
19 administering CEQA. And there are certain functions.

20 Then it says the decision-making body of the
21 public agency shall not delegate the following
22 functions: Reviewing and considering a final EIR or
23 approving a Negative Declaration prior to approving a
24 project.

25 Now there is a train of thought that says

1 where a decision-maker is the staff, that staff member
2 might be able to do that.

3 But in this case, I think the Board is acting
4 as the decision-maker, and therefore it can't delegate
5 the CEQA determination to the General Manager, to the
6 Executive Officer.

7 I have no idea whether Caltrans or our staff
8 could produce that Neg Dec by the end of the meeting as
9 we're doing on that other project.

10 The other thing, if you don't want them to
11 wait for an entire month, is we could continue this
12 meeting to another date certain. I'd have to look at
13 the Bagley-Keene rules.

14 But it's not -- it's already been agendaized.
15 We could continue and have another meeting, probably in
16 just a week or ten days, and not go through the whole
17 period.

18 BOARD MEMBER RIE: I'm just curious. We had
19 several consent items this morning, and we made CEQA
20 findings. How did we handle those?

21 DEPUTY ATTORNEY GENERAL CAHILL: How were
22 those addressed?

23 BOARD MEMBER BROWN: That's a good question.
24 I'd like to hear, if you have any thoughts, Teri, as
25 part -- as we delegate the authority to the General

1 Manager, sounds like an interpretation could be that he
2 would be the responsible party to review the CEQA.

3 BOARD MEMBER RIE: On the previous project, I
4 think it was agenda Item 13, we're the Lead Agency. So
5 we have to review the initial study and the Mitigated
6 Neg Dec.

7 But when we are the Responsible Agency, we can
8 base our CEQA findings on the CEQA findings that
9 Caltrans has made.

10 And we did something similar to these other
11 consent items, and I'm just trying to find one that had
12 a Mitigated Neg Dec between A and N and see how you
13 guys treated that.

14 DEPUTY ATTORNEY GENERAL CAHILL: If it's
15 possible to get this done today, would it be possible
16 to go get the --

17 SENIOR ENGINEER BUTLER: Possible.

18 DEPUTY ATTORNEY GENERAL CAHILL: Okay.

19 BOARD MEMBER BURROUGHS: I would suggest you
20 head back to the office and grab it.

21 MS. FINCH: May I -- I just asked the Caltrans
22 representative to see if she could have someone
23 electronically send it, and I could print it up so
24 she's out calling her office. Maybe we could give her
25 five minutes.

1 BOARD MEMBER BURROUGHS: Okay. If not, then
2 head out.

3 PRESIDENT CARTER: Mr. Butler.

4 SENIOR ENGINEER BUTLER: If I may answer
5 Ms. Rie's question with respect to how we're handling
6 consent items on the CEQA findings.

7 I have been summarizing -- in the case of a
8 Mitigated Neg Dec, I've been summarizing the Lead
9 Agency Mitigated Neg Dec as part of the staff report.
10 And then, in your review of the staff report, you would
11 meet the intent of CEQA that you had reviewed the
12 Mitigated Neg Dec, and you were making findings based
13 on the Board's recommendation.

14 In this particular case, you haven't had the
15 chance to see with your own eyes that staff report. I
16 think that's probably the technicality that we're
17 dealing with.

18 Would you agree, Ginny?

19 DEPUTY ATTORNEY GENERAL CAHILL: We have been
20 summarizing what the impacts were and referring to a
21 document where the mitigation measures were laid out,
22 and so --

23 SENIOR ENGINEER BUTLER: That's correct, a
24 short summary of what the mitigation measures are
25 intended to do.

1 PRESIDENT CARTER: Okay. Where we are right
2 now, we have a motion and second. We appear to be not
3 able to act on that yet, so the proposal will be to
4 table this item until such time as we actually can get
5 our hands on the environmental documentation, hopefully
6 by the end of today, and then we can act on it.

7 Is everyone comfortable with that?

8 BOARD MEMBER BROWN: Well, it still begs the
9 question, the interpretation of not being the Lead
10 Agency in this case.

11 DEPUTY ATTORNEY GENERAL CAHILL: The guideline
12 section addressing process for Responsible Agency says:

13 Prior to reaching a decision on a
14 project, the Responsible Agency must
15 consider the environmental effects of
16 project as shown in the EIR or Negative
17 Declaration.

18 BOARD MEMBER BROWN: But does that mean we can
19 listen to staff and consider it?

20 BOARD MEMBER RIE: You did with 7K.

21 DEPUTY ATTORNEY GENERAL CAHILL: We did with
22 some of the consent items. Staff summarized what the
23 impacts were as shown in the Negative Declaration.

24 BOARD MEMBER RIE: Item 7K, that was 72-inch
25 pipe, and the staff prepared an Attachment C, CEQA

1 finding. So it's not the full environmental document,
2 but it's just a summary of the findings.

3 So what we need to do is we need to make
4 findings. And so if someone could provide the findings
5 for this particular permit, then we can review those at
6 some point in the afternoon and approve those findings.

7 BOARD MEMBER BROWN: Is there an environmental
8 document here?

9 EXECUTIVE OFFICER PUNIA: The Caltrans person
10 is getting the environmental findings which staff can
11 review with and prepare our own findings before the day
12 is over.

13 SENIOR ENGINEER BUTLER: Get our own.

14 BOARD MEMBER BROWN: We don't have a copy on
15 the staff?

16 SENIOR ENGINEER BUTLER: We didn't bring it
17 because prior to this meeting, the intent was to pull
18 this item from the agenda. So there were discussions
19 yesterday that I wasn't a part of. Otherwise, I would
20 have had it, at least electronically, here.

21 BOARD MEMBER BROWN: So the answer is no.

22 SENIOR ENGINEER BUTLER: The answer is no.

23 BOARD MEMBER RIE: Are the findings going to
24 be pretty minimal?

25 SENIOR ENGINEER BUTLER: They are.

1 BOARD MEMBER RIE: Because of the Mitigated
2 Neg Dec? So my guess it's just going to be two or
3 three at most?

4 SENIOR ENGINEER BUTLER: One page.

5 BOARD MEMBER BROWN: If you had any you could
6 put them up on the screen.

7 SENIOR ENGINEER BUTLER: That's what we were
8 checking.

9 BOARD MEMBER RIE: We don't need the entire
10 document. We need a summary of the findings.

11 PRESIDENT CARTER: Okay. What we'll do is
12 table this item at this point. You guys get the
13 documentation that we need here ASAP, then we'll
14 revisit it.

15 SENIOR ENGINEER BUTLER: Summary is all we
16 need.

17 PRESIDENT CARTER: Yes. Moving on, ladies and
18 gentlemen, let's move to Item 14, Delegation of
19 Authority to the Executive Officer.

20 Delegation to the Executive Officer the
21 authority to sign Negative Declarations for Board
22 projects, PL 84-99 projects, and other projects that do
23 not need to come before the Board for a permit.

24 Ms. Cahill.

25 DEPUTY ATTORNEY GENERAL CAHILL: This came out

1 of the context of the two items prior to the just
2 previous one, the Sac Bank Project and the PL84-99
3 project.

4 And the Negative Declarations were prepared,
5 and the question was: Can we just give these to the
6 Executive Officer and not bring them to the Board?

7 And you have a delegation regulation that when
8 you read it appears to permit you to let the Executive
9 Officer do the Negative Declarations.

10 But your own resolution, our more recent
11 delegation resolution, 06-08 does not. The Executive
12 Officer can begin the process of EIR Neg Decs. He can
13 make exemption findings. But he cannot make the
14 findings on a Negative Declaration or on an EIR. Those
15 are not delegated to the Executive Officer.

16 And we put this item on the agenda because I
17 was being told those projects weren't coming to the
18 Board, so if they didn't come to the Board, the
19 Executive Officer could sign the Negative Decs, then
20 they'd be done.

21 The reason in theory why they were not coming
22 to the Board was they were somehow Board projects and
23 you don't permit your own projects.

24 But in fact, it appears that the Sac Bank
25 projects and PL84-99 projects do come to the Board for

1 the Board to approve its participation in the project.
2 There will be ultimately a cooperation agreement with
3 the United States. There will be, in some cases, some
4 funding. There will be the property acquisitions.

5 And so if they are coming to the Board under
6 the CEQA guidelines that I read earlier, the Board is
7 the decision-maker, Section 15025 of the CEQA
8 guidelines where the Board is the decision-making body,
9 it shall not delegate reviewing, considering the final
10 EIR or approving the Neg Dec prior to approving the
11 project.

12 I think the -- so we didn't do a staff report
13 on this one because, having found that CEQA guideline,
14 it looked like we couldn't do it. And in fact, at
15 least one Board Member e-mailed me and said we can't
16 delegate this. It's not delegable.

17 I think there is an interesting policy issue,
18 and maybe we'll discuss it at another meeting: Do
19 these projects have to come to the Board, and/or do you
20 think you delegate them to General Manager, if you even
21 have the power to do so.

22 But that's a little off the point for today.

23 The real thing we're trying to decide today
24 is, given the inconsistency between these two
25 delegation orders, whether you had already delegated it

1 to the Executive Officer, and if you didn't whether you
2 wanted to do a new delegation resolution giving that.

3 But so long as those projects, those Sac Bank
4 and PL84-99 projects are coming to the Board, it really
5 should be the Board that does the CEQA findings.

6 I think we'll revisit delegation in the
7 context of the regulations, your new regs, and take
8 another look at what it is that you want to delegate
9 and have delegated and can delegate.

10 So I wouldn't recommend any action on this
11 item today, but I think we have identified sort of an
12 area, and particularly now with what just happened with
13 a couple of today's projects.

14 Those are permits, and they're here before
15 you. So when they are here before you, you are the
16 decision-making body. And under your current
17 legislation, notwithstanding what would have happened
18 in the past, these are now permits that are coming to
19 you. You are the decision-making body, and you can't
20 delegate the CEQA findings.

21 VICE-PRESIDENT HODGKINS: I had a question on
22 two of these.

23 The Sac Bank mitigation project, Deborah and
24 Peter, that Sac Bank mitigation project that we
25 approved on the American River? Is that being done

1 under an existing cost-sharing agreement?

2 MS. CONDON: Yes, it is. It's the existing --
3 it's quite a few years old, but it still covers Phase
4 2. Linear footage, yeah.

5 VICE-PRESIDENT HODGKINS: Okay. So that's --
6 at the time we approved that cost-sharing agreement,
7 nobody knew we were going to do that project.

8 And I don't know here whether that should come
9 before us, but the PL84-99, did we do a cost-sharing
10 agreement on that?

11 DEPUTY ATTORNEY GENERAL CAHILL: You will do a
12 a cooperation agreement with the United States.

13 VICE-PRESIDENT HODGKINS: We will.

14 DEPUTY ATTORNEY GENERAL CAHILL: Yes, after
15 the environmental documents are done because the Corps
16 also has to do its environmental documents.

17 After they are done, the Corps and the Board
18 enter into a cooperation agreement.

19 VICE-PRESIDENT HODGKINS: Okay.

20 PRESIDENT CARTER: Any other questions of
21 staff?

22 DEPUTY ATTORNEY GENERAL CAHILL: Thank you.

23 PRESIDENT CARTER: Very good, thank you.

24 Do we have any more information with regard to
25 our Item 12, the resolution 08-10? We were waiting for

1 the initial study.

2 MS. FINCH: Support staff up in DWR Legal is
3 photocopying five copies, and she'll bring it down when
4 it's ready.

5 PRESIDENT CARTER: Okay. So we'll continue to
6 hold that on the table.

7 DEPUTY ATTORNEY GENERAL CAHILL: Another
8 question from board staff.

9 MS. CONDON: We do have a copy of the Caltrans
10 comments. Mr. Buck brought them.

11 PRESIDENT CARTER: Okay, very good. Hold that
12 until we're ready to reconsider that item. All right.

13 Then we'll move on to item 16, this is an
14 informational item. River Islands Case (Natural
15 Resources Defense Council V. Reclamation Board)
16 Settlement and Next Phase of the Proposed Project.

17 Ms. Finch, Ms. Dell'Osso.

18 MS. FINCH: In preparing for this
19 presentation, I was marginally involved with one phone
20 conversation; and it became quickly apparent that this
21 was a presentation by the other members of the
22 settlement agreement from the NRDC lawsuit.

23 This basically is what has been going on since
24 the settlement occurred and with their obligations
25 under the settlement which was beyond what the Board

1 was obliged to do.

2 So this is the update, so I'm turning it over
3 to the group.

4 MS. DELL'OSSO: Good afternoon, my name is
5 Susan Dell'Ossso. I'm the Project Director for River
6 Islands.

7 And actually part of the things we are going
8 to discuss today is whether the Board still does have
9 to be involved in the implementation of what we've been
10 negotiating here.

11 But it is my pleasure to actually introduce
12 the group of presenters today.

13 John Cain reminded me that the last time we
14 were in these chambers was in June 2006. And at that
15 time, we weren't necessarily on the same side of the
16 table.

17 So we come to you today as a team, and we're
18 working on a project that we're really pretty proud of.

19 Part of the presentation today will be done by
20 Monty Schmidt. He is the senior water resources
21 scientist for Natural Resources Defense Council. And
22 Monty was very involved in the settlement negotiations,
23 as was John Cain who is the Director of Restoration
24 Programs with Natural Heritage Institute.

25 Nancy Finch was very much involved in the

1 settlement, as was Butch, and Steve Bradley, the past
2 engineer.

3 I am, again, Susan Dell'Osso, Project
4 Director, and Glenn Gebhardt, my engineering manager,
5 was very instrumental in the modelling effort to look
6 at this bypass.

7 What we are doing today -- contrary to what
8 some of you think, this is not an update of the River
9 Islands project. We will be coming back to you in a
10 few weeks.

11 We have a letter going in to Jay Punia in a
12 couple days requesting that the Board consider our 408
13 request for Phase 2 of the River Islands project.

14 So this is not about River Islands. This is
15 about the River Islands-NRBC-NHI-State Rec Board
16 settlement and the outcome of that.

17 And in particular, we want to talk to you
18 about the Lower San Joaquin River Regional Flood
19 Bypass.

20 Actually, the heated -- the most contentious
21 item really amongst this group in front of you has been
22 the name we're going to call this bypass. There's some
23 who wanted to call it the South Delta, and we kind of
24 settled on Lower San Joaquin River Regional Flood
25 Bypass.

1 So that's a name we hope you'll be hearing
2 more and more lately.

3 The settlement agreement does require that we
4 come back and update the Board on a regular schedule.
5 We haven't figured out exactly what it is yet. If you
6 like this forum, we'll be more than happy to come back
7 and update you in this manner on a continual basis.

8 Most importantly, rather than going over the
9 settlement agreement itself and the details of that
10 which I'm sure you're very familiar with, we wanted to
11 talk to you about the goals of the original bypass plan
12 and also how we're in the process of implementing it
13 and bringing in stakeholders.

14 With that, we're going to have kind of a
15 tag-team approach, and you might find juggling and
16 making comments in other people's presentations but we
17 wanted to make sure that the whole group was in front
18 of you so you can see we're working as a team to
19 implement this program.

20 Mr. Schmidt?

21 MR. SCHMIDT: Good afternoon. Thank you for
22 giving us the opportunity to come before you folks and
23 give you an update on the project.

24 It's not -- it's a surprise, I think, for a
25 lot of folks to see us now working together after

1 having been in court together. And I think the reason
2 why is because we, like with many settlements that I
3 think succeed, people see there is more to be gained
4 working together than staying in court.

5 And the goals you have in front of you are the
6 reason why we are here together, because we recognize
7 jointly there is a need for increased flood protection
8 in this part of the San Joaquin Valley as throughout
9 the entire Central Valley.

10 We saw an ability to work together on a
11 project that would have significant regional flood
12 management benefits.

13 And we see that as something that not only
14 provides increased protection today, but we also look
15 at a future in the Central Valley where there is
16 increased development, there's changes in hydrology
17 related to climate change and other factors.

18 We have needs for habitat in the San Joaquin
19 and Delta region that are more pressing today than
20 issues in the past.

21 So we see opportunity to create significant
22 flood management benefits. We see also huge
23 opportunities to create really important floodplain
24 riparian habitat.

25 This is a type of habitat that is directly

1 connected to our flood control infrastructure. It
2 takes the, you know, the peak hydrology is what drives
3 the biology of these systems and that's directly
4 connected to how we manage our flood control systems.

5 So we need -- we see this as an opportunity to
6 design a project that brings those two purposes
7 together so that they work together as opposed to being
8 in conflict which is often the case.

9 We also recognize there is a very large and
10 significant and important effort to create a Central
11 Valley Flood Control Plan.

12 We see this project as being an important
13 component of that. We want to make sure the
14 conversations that we have with you folks and we have
15 with Department of Water Resources and the Corps, that
16 we are sharing information that we understand what
17 their interests and goals are and share ours and try to
18 find a project that is compatible.

19 And we have been extremely aware of the need
20 to -- that this isn't just a settlement that meets our
21 interests. It's about how we increase the level of
22 stakeholder buy-in.

23 And we've spent already a fair amount of time
24 meeting with local landowners in the area cities,
25 counties to share with them our goals and the idea of

1 our project and the benefits. And we've received an
2 credible amount of support.

3 People are still cautious and want to see the
4 details. But given how intense flood management
5 projects can be in areas, I think we were pretty
6 surprised at how well we've been received.

7 So those are pretty much our main goals for
8 the project.

9 MS. DELL'OSSO: I'm just going to quickly
10 describe what we're doing currently on the project.

11 Glenn's in a moment going to describe where
12 we're looking at, where the alignment that we're
13 considering, and kind of more of the technical details.

14 But essentially, what we've been doing is just
15 start doing more model runs of where a particular
16 alignment should be to meet the goals that Monty just
17 outlined.

18 A critical one being that -- the reduction of
19 the flood stage along the San Joaquin River, which is
20 the urban areas, and trying to do that without
21 impacting the agricultural areas downstream. That's
22 our primary goals there.

23 As Monty said, we have been meeting with a
24 number of stakeholders. RD 17 is a big one because
25 RD 17 is a Reclamation District that controls levees

1 along the Lathrop, San Joaquin, Stockton, area that --
2 where the most urbanization has occurred recently, and
3 they would be the ones who benefit most significantly
4 from any reduction along the San Joaquin River.

5 We've met with both the City of Lathrop, the
6 City of Stockton, Manteca, San Joaquin County, and also
7 other Reclamation Districts and important individuals.

8 I know that most of you know Alex Hildebrand
9 from South Delta Water Agency. Alex is an absolute
10 guru in an area it is important for us to get his
11 support on this project as well.

12 So over the last -- we settled the lawsuit in
13 December, and since December we have spent the last
14 four or five months meeting with a lot of people and
15 trying to gain support. We really have found a common
16 thread that people are rallying around.

17 We continue to discuss the plan with property
18 owners. The property owners whose property will be
19 where the bypass is going to be located are obviously
20 the ones who are mostly impacted.

21 And to our surprise, we haven't had as much --
22 I don't want to say they're totally in support, but
23 they understand that they might be able to control when
24 their land floods, to be paid when their land floods, a
25 lot of benefits that these farmers currently don't have

1 today.

2 So the local property owners have surprisingly
3 been cooperative to work with, and we're meeting with
4 them on an ongoing basis.

5 We're also looking into all the different land
6 acquisition options and types of payment plans that we
7 can enter into with the property owners.

8 We have agreed amongst ourselves that we
9 should hire an outside individual to help us negotiate
10 this, because we're all busy people and want to make
11 sure somebody is focused on it so we don't lose the
12 time line here.

13 So we will come back to this Board -- I think
14 I just sent the agreement over to Nancy -- we'll come
15 back to the Board to see if we can use some of the
16 initial funds we put aside in escrow as far as the
17 settlement agreement, we can use some of those initial
18 funds to help fund this person's role.

19 And then what we're also doing and which is
20 part of our settlement agreement, was River Islands is
21 processing a Phase 2 Environmental Impact Statement
22 through the Army Corps, and as part of that EIS we're
23 including this concept, this additional bypass, as one
24 of the flood protection alternatives.

25 It's not a River Islands bypass, but we wanted

1 to get some NEPA coverage, and to make sure that we at
2 least get it out there in the environmental analysis so
3 that we can start looking at it in a lot more detail.

4 So these are the things we're doing right now.
5 And with that, I'm going to turn it over to Glenn to
6 get into some of the technical details.

7 MR. GEBHARDT: Good afternoon. Glenn
8 Gebhardt, promise to keep this not too dry and fairly
9 short. I'm here really to talk about location, some of
10 the assumptions we're using, the initial results and
11 components of the bypass we're looking at.

12 The map in front of you really shows you the
13 area between Paradise Cut and Tom Paine Slough, and
14 we've been focusing south of Paradise Cut looking for
15 an opportunity for a bypass in this area.

16 The key piece here too is that the model we
17 have refined through the state and federal review, this
18 is really the center of that model area so that we have
19 a model that accurately can represent this area.

20 This slide here in front of you is the base
21 case. In everything we're doing we're assuming that
22 these base improvements are installed. Those are the
23 improvements that are proposed by the River Islands
24 project. They're all along the north side of Paradise
25 Cut. They were on that north side just to allow this

1 focus to allow for future widening on the south side.

2 The base improvements are subject to a
3 separate application, as Susan mentioned, by River
4 Islands to come before the Flood Board in the future
5 for the 408 request and as Susan mentioned, the base
6 case will be reviewed by the Corps in the EIS.

7 The bypass components. The initial bypass we
8 looked at, you'll see the widened Paradise Weir and the
9 alternative weir location along the San Joaquin River.

10 Initially we looked at a possible alignment
11 down along Tom Paine Slough, and most of our focus now
12 really is -- the current alignment is along Paradise
13 Cut on the south side. We just feel that's a more
14 deliverable project at the moment.

15 All of these do assume some downstream
16 dredging. Down -- you see the Doughty Cut and Salmon
17 Slough area in the upper left of that sketch under
18 bypass components. They do all include a widening of
19 the Paradise Weir and various alternate upstream
20 locations. Right here you see three weir locations
21 where it says three alternate weirs.

22 Flood storage areas are a desire from the
23 modelling we're doing. We know they're a tremendous
24 benefit to reducing or eliminating downstream impacts
25 depending on flood storage areas able to be acquired.

1 That will be another piece of future modelling that
2 we're performing. And as Susan mentioned, the final
3 item will be included in the EIR -- on the EIS.

4 For the initial results, what really triggered
5 some of the numbers for the settlement agreement were
6 that we had found a first look at widening Paradise Cut
7 gave us some improvements, really lowered the San
8 Joaquin River and design flood and we looked at more.

9 And in those initial looks we were still
10 looking at an approximate 20-inch droop in the
11 elevation of the San Joaquin River, and the 52,000 feet
12 of that is design flood.

13 Looking at the Paradise Cut improvements,
14 there is mitigation of the height elevation increases
15 that you find at Paradise Cut if we set back on the
16 south side of Paradise Cut.

17 And we know that flood storage can completely
18 mitigate, depending what we find on locations, can
19 mitigate for the design storm any impacts we have in
20 downstream areas. And that can be designed so that the
21 frequency of flooding in those areas would still allow
22 farming.

23 Again, our goal with everything we're doing is
24 to maximize the benefit and minimize the impact. As
25 you can see, those are the main components that we're

1 looking to tweak and finalize and to maximize the
2 benefit that we get.

3 MR. CAIN: Hello, I'm John Cain with the
4 Natural Heritage Institute. I was able to present this
5 whole settlement to our board last week, and they were
6 very pleased and wanted me to convey on their behalf
7 that this is exactly the kind of -- they would much
8 rather be working in collaboration with partners like
9 River Islands and the Central -- I'll call you the
10 Reclamation Board.

11 I want to also acknowledge Mr. Brown and
12 welcome him to his new place on the Board. Although he
13 doesn't realize it, he surely remembers the very unique
14 day we once spent in the Mono Basin when the wind was
15 blowing 120 miles an hour, and I was just getting
16 started in my career, to go view the Mono Basin and you
17 couldn't see anything because the dust was blowing so
18 hard.

19 BOARD MEMBER BROWN: You didn't know that, but
20 when we got back, John Caffrey said my goodness, he
21 says, weren't you guys worried about BM10 flying
22 through there? BM10 heck, we were worried about
23 railroad ties.

24 (Laughter)

25 MR. CAIN: It was an unbelievable wind storm.

1 Anyway I'm really here to brief you on our next steps
2 and where we're going to further develop and refine the
3 project alternatives through modelling analysis.

4 And part of the settlement involves working
5 collaboratively together to use the model that River
6 Islands developed with MBK to evaluate this, to share
7 information with the FloodSAVE program to make sure
8 that what we're doing is in tandem with the larger
9 plans for flood management.

10 Also to work with the Reclamation Board and
11 the Army Corps of Engineers on the Lower San Joaquin
12 River Feasibility Study and find the most appropriate
13 place to input this idea, the feasibility study.

14 We'll continue working with local stakeholders
15 to increase support for the project. We see that as
16 every bit as important as all the other planning.

17 And lastly, we want to emphasize, develop a
18 collaborative, positive relationship with the Central
19 Valley Flood Protection Board -- finally got it
20 right -- to not only do something really great here but
21 to set a precedent for working together and building
22 relationships into the future. Thanks.

23 MS. DELL'OSSO: Just to wrap this up -- and
24 actually, I'm going to mention something John didn't
25 highlight here -- but as part of the settlement, there

1 really is a proactive role that the Board needs to take
2 because we're partners in the settlement.

3 We are partners working together which is
4 fantastic, but we really need your support. So
5 possibly the San Joaquin coalition that's being put
6 together -- I think Butch and Teri and Rose Marie are
7 part of that -- possibly that is a group we can
8 continue working with a little bit more closely on this
9 issue because it really is San Joaquin County based.

10 In summary, the model results are really very
11 promising. We're looking at benefit to the urban areas
12 with a fairly small impact that we haven't begun to
13 refine yet to the agricultural areas. We think we can
14 close the gap there.

15 As mentioned by both Monty and John, it's
16 wonderful to have a working relationship. I mean two
17 years ago, we were not very friendly with one another,
18 and we've actually found there's days when there's ten
19 e-mails going back and forth amongst all of us.

20 And it is so much more productive to be
21 working together than in opposition with each other, so
22 we really appreciate the mutual compromise and the fact
23 that we can spend time together.

24 The stakeholders, including property owners,
25 have been supportive. That is incredibly important

1 because obviously if we don't get the voluntary buy-in
2 from the whole entire group, including property owners,
3 then it's going to be much more difficult to implement
4 the plan.

5 And to reiterate, we really want the State to
6 be involved in this process. And we would look forward
7 to working with this San Joaquin coalition if that's
8 what you'd like us to do.

9 So with that, we'd be happy to answer
10 questions. Any one of us would be happy to answer
11 questions, then we'd also be happy to come back on a
12 regular basis and continue to brief the Board as
13 progress is being made.

14 PRESIDENT CARTER: Thank you. Any questions
15 for the team?

16 VICE-PRESIDENT HODGKINS: I went to one of the
17 Delta Vision Workshops. And in talking about their
18 need for environmental restoration, they talked about
19 the kind of floodplain habitat that you are creating
20 here.

21 But they seemed to have written off San
22 Joaquin and were very focused on the lower end of the
23 Sacramento bypass.

24 So I am sure you are working to be sure that
25 they're aware of this as a potential project?

1 MR. CAIN: Yeah, absolutely. The -- I think
2 one of the challenges on the San Joaquin is that the
3 spring flows have been so attenuated that you don't get
4 the kind of inundation flows that you get in the Yolo
5 Bypass which provide that good habitat.

6 But one of our goals is to find a way of
7 designing this process so that it provides benefit for
8 the South Delta along the San Joaquin as well.

9 And it's inextricably linked to what they're
10 doing at Delta Vision and the Delta Conservation Plan,
11 and we're trying to make sure those forums know about
12 what we're doing.

13 VICE-PRESIDENT HODGKINS: Very good.

14 MS. DELL'OSSO: To expand on that a little
15 bit, the State of Flood Control and Lower San Joaquin
16 Feasibility Study that the Corps is implementing have
17 morphed into one analysis we think. We aren't quite
18 sure.

19 So we've been requesting meetings with several
20 members of the Corps and State to try to make sure we
21 are talking to the right people.

22 So we're very cognizant -- you know, people
23 don't pay a lot of attention to San Joaquin lots of
24 times. But when we have heavy rains we have problems,
25 and we need a bypass down there.

1 And if the urban areas are going to meet the
2 200-year level protection, we have to have a bypass.
3 Not us, but some of the other urban areas.

4 VICE-PRESIDENT HODGKINS: Yes.

5 BOARD MEMBER BROWN: You might stay close to
6 Gary Hester. He is looking at some areas now that
7 we're concerned with, like up in Silver Creek and
8 Arroyo Pasajero, and Garza, those canyons all
9 contribute, bring heavy storm flows to your area of
10 concern.

11 And now that flood control is taking a little
12 bit more interest in it, let's say, up in the Delta in
13 just water issues that some of those projects a few
14 years ago that were not very economically feasible may
15 turn out to be so when we bring in the multiple
16 benefits of water reclamation, soil conservation, flood
17 control, and all those things that help the project
18 capacity.

19 So we're taking another look at those areas
20 which could help you considerably hopefully,
21 particularly Arroyo Pasajero.

22 MS. DELL'OSSO: Okay. One of our -- I know we
23 said before, the combination of flood protection and
24 habitat restoration is critical.

25 And we probably won't have a lot of wet

1 habitat because it's not wet down here but it's
2 absolutely our goal to make sure the two benefits are
3 met.

4 PRESIDENT CARTER: Any other questions,
5 comments?

6 VICE-PRESIDENT HODGKINS: I would -- a
7 question maybe for Jay. Could we put them on the
8 agency for our subcommittee meeting and basically ask
9 you maybe to make the same kind of presentation as you
10 did to us to help the people who attend that meeting
11 know this is going on and encourage them to get
12 involved as well?

13 MS. DELL'OSSO: We'd love to.

14 EXECUTIVE OFFICER PUNIA: We are having our
15 first subcommittee, San Joaquin subcommittee meeting,
16 on May 30. And I will work with Susan to put this item
17 on the agenda. We are ready to finalize the agenda and
18 will be meeting Monday or Tuesday, so we are glad to.

19 MS. DELL'OSSO: We'd be happy to do it.

20 PRESIDENT CARTER: Very good, ladies and
21 gentlemen. Thank you very much for coming.

22 All right. Let's go ahead and take a -- do we
23 have the documents we need in hand at this point?

24 SENIOR ENGINEER BUTLER: They are coming.

25 PRESIDENT CARTER: They're coming. Do we have

1 anything we can review?

2 SENIOR ENGINEER BUTLER: Probably right after
3 the break.

4 PRESIDENT CARTER: It would be nice to be able
5 to review some of that during the break.

6 SENIOR ENGINEER BUTLER: It might be down. He
7 just went to make copies.

8 PRESIDENT CARTER: So let's collect what we
9 have. Let's take a 15-minute break, and we will
10 reconvene here at 3:15.

11 (Recess)

12 PRESIDENT CARTER: Good afternoon again,
13 ladies and gentlemen. Let's continue with our meeting.

14 Is it the Board's pleasure to go ahead and
15 reopen these tabled items, and have you had a chance to
16 review the documentation? Are we prepared to move on
17 these?

18 BOARD MEMBER RIE: Yes.

19 PRESIDENT CARTER: Okay. So let's start
20 with -- let's return to Item 12, which is Sacramento
21 River Bank Protection Project consider adoption of
22 Resolution 08-10.

23 BOARD MEMBER BROWN: Do you have a motion on
24 that? There is a motion pending.

25 PRESIDENT CARTER: Let's see what my notes

1 say.

2 BOARD MEMBER BURROUGHS: Motion and second.

3 PRESIDENT CARTER: I think we have a motion
4 and second on the Caltrans application. I do not
5 believe we had a motion on the Sac Bank Protection.

6 It was tabled pending Board review of the
7 preliminary study. That's the issue. Okay.

8 BOARD MEMBER BROWN: So move adoption,
9 Mr. Chairman.

10 BOARD MEMBER RIE: Second.

11 PRESIDENT CARTER: We have a motion to adopt
12 the Resolution 08-10, and we have a second. Any
13 further discussion?

14 Mr. Young, would you like to address the Board
15 or?

16 MR. YOUNG: I have nothing else to add other
17 than you have the document in hand now.

18 BOARD MEMBER RIE: Thank you for getting
19 those. We appreciate that.

20 DEPUTY ATTORNEY GENERAL CAHILL: I want to
21 make it clear on the record that the initial study has
22 been provided to all the Board Members who have had a
23 chance to review it.

24 BOARD MEMBER RIE: That is correct. And the
25 Caltrans comment letter was also provided.

1 BOARD MEMBER BROWN: Yes.

2 PRESIDENT CARTER: Okay. And all Board
3 members meaning all Board members present today.

4 DEPUTY ATTORNEY GENERAL CAHILL: Yes.

5 PRESIDENT CARTER: Okay. Very good.

6 Mr. Punia, would you call the roll, please.

7 EXECUTIVE OFFICER PUNIA: Board Member John
8 Brown?

9 BOARD MEMBER BROWN: Aye.

10 EXECUTIVE OFFICER PUNIA: Board Member Rose
11 Marie Burroughs?

12 BOARD MEMBER BURROUGHS: Aye.

13 EXECUTIVE OFFICER PUNIA: Board Member Butch
14 Hodgkins?

15 VICE-PRESIDENT HODGKINS: Aye.

16 EXECUTIVE OFFICER PUNIA: Board Member Teri
17 Rie?

18 BOARD MEMBER RIE: Aye.

19 EXECUTIVE OFFICER PUNIA: Board President Ben
20 Carter?

21 PRESIDENT CARTER: Aye. Okay. The resolution
22 will be adopted. Thank you.

23 BOARD MEMBER RIE: Thank you.

24 PRESIDENT CARTER: Okay. Then we will return
25 to our hearing which we had opened regarding Item 7C

1 which was Permit 18259 for Caltrans.

2 As you recall, we had a motion by Mr. Hodgkins
3 to approve the permit 18259 and delegate authority to
4 the Executive Officer to sign the permit subject to
5 getting appropriate documentation, resolving any
6 concerns regarding the project with the Army Corps of
7 Engineers and the local Reclamation Districts. That
8 was seconded by Teri, I believe.

9 So that's where we stand there. We asked for
10 the summary of the environmental assessment and
11 findings from Caltrans which is the Lead Agency on the
12 environmental CEQA process which we have received.

13 Any questions about that? Everyone's had a
14 chance to review it. Any discussion?

15 EXECUTIVE OFFICER PUNIA: If the Board
16 desires, staff can briefly explain the environmental
17 impacts. That's up to the Board.

18 PRESIDENT CARTER: Let's go ahead.
19 Mr. Butler, could you please give us a brief summary.

20 SENIOR ENGINEER BUTLER: Yes, I can.

21 So what you have in your packet is four pages,
22 an extract from the Mitigated Neg Dec and environment
23 assessment initial study that I previously reviewed.

24 So just to walk you through this, if we jump
25 into page 3, I'm going to move away from the microphone

1 but speak loudly.

2 This is the basic project description. I
3 think it's important to read it since you don't have it
4 in your packet:

5 The California Department of
6 Transportation, Caltrans, proposes to
7 widen Interstate 205 from four lanes to
8 six lanes from west of the 11th Street
9 overcrossing to the Interstate
10 205/Interstate 5 junction in San Joaquin
11 County.

12 The widening of Interstate 205 would
13 occur within the existing median and not
14 require acquisition of new right of way.

15 The proposed project would widen
16 Interstate 205 by adding one mixed-flow
17 lane in each direction, widening the
18 inside shoulders to 4 and a half meters
19 or 15 feet eastbound and 3 meters
20 10 feet westbound, replacing temporary
21 median barriers with permanent median
22 barriers, and widening structures to
23 accommodate six lanes.

24 Existing lanes and ramps will be
25 rehabilitated as part of the proposed

1 project. All ramps at the Tracy Road,
2 McArthur Drive, and Grant Line Road
3 interchanges will receive an overlay of
4 pavement.

5 Now the determination -- this is a summary of
6 the determination that was made for CEQA purposes:

7 Caltrans has prepared an initial study
8 and determines from this study that the
9 proposed project would not have a
10 significant effect on the environment
11 for the following reasons: The project
12 would have no significant effects upon
13 industry, the economy, employment,
14 agricultural resources, water quality,
15 air quality, land use, park lands,
16 recreational facilities, community
17 growth, neighborhoods, aesthetic
18 resources, floodplain, historic and
19 archaeological resources, or educational
20 facilities.

21 Noise impacts would be mitigated to less
22 than significant levels by constructing
23 noise attenuation barriers where
24 practical and effective.

25 Residents experiencing severe, 75 dba or

1 greater, after-project noise impacts may
2 receive funds on a case-by-case basis
3 from the Federal Highway Administration
4 for acoustical enhancements.

5 Acoustical enhancements could include
6 noise insulation features such as air
7 conditioning, allowing windows to be
8 kept closed, replacement of windows,
9 caulking, et cetera.

10 And I would note that in discussions with our
11 Caltrans representative here today that these were
12 soundwalls that are going in in the City of Tracy which
13 is about six miles to the west of the bridges that
14 we're considering here today, not part of the actual
15 impacts due to the bridges.

16 And finally the third paragraph is really the
17 key finding:

18 Impacts on endangered or threatened
19 animal species would be mitigated by
20 implementation of the measures specified
21 in the Biological Opinion rendered by
22 the US Fish and Wildlife Service and
23 measures specified by the California
24 Department of Fish and Game.

25 And basically, this is the May 1 through

1 August 1st narrow construction window that was
2 discussed to mitigate for the brush rabbit -- riparian
3 brush rabbit and the garter snake.

4 PRESIDENT CARTER: August 1 or October 1?

5 MS. GORDON: October 1.

6 PRESIDENT CARTER: Okay, so May 1 through
7 October 1 construction window.

8 SENIOR ENGINEER BUTLER: Thank you. My note
9 is incorrect.

10 So then the next page is a table. This is a
11 typical table and an environmental document, typically
12 laying out the various types of potential features that
13 could be impacted and then just listing as to whether
14 or not there are impacts.

15 And so the key thing here is, what I found in
16 my review, was that in summary the project now has
17 included mitigation measures which would reduce what
18 otherwise may have been significant impacts to below
19 significant level of impact.

20 So my recommendation was that you would
21 find -- make a finding that you were in agreement with
22 Caltrans' Mitigated Negative Declaration and that you
23 would use that finding as part of your reasoning to
24 approve the project.

25 PRESIDENT CARTER: So we have -- are there any

1 questions for Mr. Butler?

2 So we have before us at this point, we have a
3 motion with a second. It does not -- my understanding
4 is the motion did not yet include making findings as
5 the Responsible Agency on CEQA. We probably need to do
6 that.

7 If you could entertain an amendment to your
8 motion, or we could make another motion to make
9 findings separate from yours.

10 DEPUTY ATTORNEY GENERAL CAHILL: You want to
11 make findings first. It can be part of the same
12 motion, but you make the findings there would be no
13 significant impacts.

14 I would suggest you adopt the findings that
15 are listed as the Determination on that Negative
16 Declaration page. You would adopt those findings as
17 your own, and then you can proceed to approve the
18 project subject to your conditions.

19 PRESIDENT CARTER: Okay.

20 VICE-PRESIDENT HODGKINS: Not knowing
21 parliamentary procedure, can I modify my own proposed
22 Resolution or do I need to withdraw it or what?
23 Anybody know?

24 BOARD MEMBER BROWN: Leave it on the table and
25 make the other one.

1 VICE-PRESIDENT HODGKINS: Table that, and make
2 a replacement and the replacement resolution would be
3 that the Board has reviewed the Negative Declaration
4 prepared by Caltrans and concurs with the findings of
5 no significant impact present therein, approves
6 granting an encroachment permit, permit to be executed
7 by our Executive Officer when he is satisfied that any
8 technical details arising from the Corps's review have
9 been addressed, and he has received the appropriate
10 endorsements from the three local Reclamation Districts
11 that are also in the project area.

12 BOARD MEMBER RIE: I'll second that amendment.

13 PRESIDENT CARTER: Is that an amendment or --

14 VICE-PRESIDENT HODGKINS: That's a new motion.

15 BOARD MEMBER RIE: Second the replacement
16 motion.

17 PRESIDENT CARTER: Very good. So we have a
18 motion and a second on that. Any discussion on the
19 second motion?

20 BOARD MEMBER BROWN: Question.

21 PRESIDENT CARTER: Okay. Mr. Punia, would you
22 call the roll?

23 The motion we are voting on now is the motion
24 that was just proposed by Vice President Hodgkins and
25 seconded by Ms. Rie.

1 BOARD MEMBER BROWN: And it replaces the prior
2 motion that you made.

3 PRESIDENT CARTER: I think we have to vote on
4 the prior motion as well, but we'll do that next.

5 BOARD MEMBER BROWN: Okay.

6 EXECUTIVE OFFICER PUNIA: Board Member John
7 Brown?

8 BOARD MEMBER BROWN: Aye.

9 EXECUTIVE OFFICER PUNIA: Board Member Rose
10 Marie Burroughs?

11 BOARD MEMBER BURROUGHS: Aye.

12 EXECUTIVE OFFICER PUNIA: Vice President Butch
13 Hodgkins?

14 VICE-PRESIDENT HODGKINS: Aye.

15 EXECUTIVE OFFICER PUNIA: Board Member Teri
16 Rie?

17 BOARD MEMBER RIE: Aye.

18 EXECUTIVE OFFICER PUNIA: Board President Ben
19 Carter?

20 PRESIDENT CARTER: Aye. Okay, so motion
21 number two passes.

22 We had before us, still have before us, a
23 motion, the first motion made by member -- Vice
24 President Hodgkins to approve the permit and delegate
25 the authority to the Executive Officer to sign subject

1 to resolving concerns with the Corps and the involved
2 RDs.

3 DEPUTY ATTORNEY GENERAL CAHILL: I would think
4 if the maker of the motion and the seconder agree, they
5 could withdraw it.

6 VICE-PRESIDENT HODGKINS: I'd like to withdraw
7 that motion.

8 BOARD MEMBER RIE: And I'll second that.

9 PRESIDENT CARTER: Very good. Then the motion
10 is withdrawn.

11 With that, I hereby adjourn the hearing on
12 permit number 18259, and we will proceed on. Thank you
13 very much.

14 Now we are on Item 17, Board Comments and Task
15 Leader Reports. Kind of go down the table here.

16 Mr. Brown, do you have anything to share with
17 the Board?

18 BOARD MEMBER BROWN: Let's see. On May 2nd, I
19 was invited up to Red Bluff to the River Partners
20 Project and observed the conservation efforts going on
21 there, the environmental restoration work. And May 5th
22 I had lunch with an old friend, George Casey, and
23 accompanied by Scott Schapiro, and no business was
24 discussed at that meeting that would come before the
25 Board.

1 PRESIDENT CARTER: Okay.

2 BOARD MEMBER BURROUGHS: The Roundtable was
3 already reported on by Keith Swanson. My comment to
4 add to that is that I did have an opportunity to talk
5 with FEMA back when they were in Washington, DC so
6 we're very anxious to get their report findings for
7 their mapping of the San Joaquin.

8 And that there was interest in continuing the
9 Roundtable as a forum to work collaboratively as we
10 continue to move forward with flood protection.

11 PRESIDENT CARTER: Thank you. Mr. Hodgkins?

12 VICE-PRESIDENT HODGKINS: First of all, I
13 attended a workshop in Chico on a safe harbor agreement
14 being developed by the Sacramento River Conservation
15 Area Forum.

16 It's a very interesting safe harbor agreement
17 directed at finding use concerns of levee maintainers
18 and property owners who may be adjacent to restoration
19 or mitigation sites; and in fact, by participating in
20 the safe harbor agreement, those individuals would be
21 protected from -- would be allowed to remove any of the
22 endangered species addressed by that should those
23 spread or show up upon their properties.

24 So not executed yet, but a promising step
25 forward in trying to ease some of the tension between

1 agricultural property owners and restorations. And at
2 some point, I think probably that would be a
3 presentation to the Board.

4 Second thing, I was asked to meet with
5 Mr. Dave Sepos who's one of the facilitators for the
6 California Center For Dispute Resolution -- I don't
7 think they call themselves that anymore.

8 But anyway, the Center has been given a
9 contract funded by the Department of Fish and Game, the
10 Yolo Basin Foundation, and I forget who the third party
11 is to convene in the Lower Sacramento Bypass a forum
12 that would be a collaborative effort to develop a
13 long-term management plan.

14 There are proposals for significant amounts of
15 environmental restoration in that area by or in
16 connection with the Delta. There is property being
17 acquired by San Joaquin agricultural interest, the
18 Westlands Water District, and there is a need to make
19 sure that restoration plans recognize the flood control
20 importance and vice versa there.

21 I spoke to Mr. Punia about it. They were
22 looking for a representative from Central Valley Flood
23 Protection Board to participate in that process. I
24 spoke to Mr. Punia who spoke to Ron Meyer and they
25 agreed, I guess that --

1 EXECUTIVE OFFICER PUNIA: Dan Fua.

2 VICE-PRESIDENT HODGKINS: Sorry, that name
3 thing. Anyway, Dan Fua is going to participate.
4 They're kicking that off June 5th.

5 I think the last thing would be we had a
6 fairly good session with DWR folks to talk about the
7 strategic plan for FloodSAFE. There were a couple of
8 changes that we requested specifically with respect to
9 the authorities of the Central Valley Flood Control
10 Board.

11 And this was not a situation where people say
12 yes or no because that plan is going through a public
13 process next, but I think those changes were something
14 that were agreeable, at least to DWR.

15 And we talked about some of the other aspects
16 of the plan and shared some of our own ideas about --
17 and John had some great ideas about trying to encourage
18 more collaboration between flood control interests and
19 land conservation and water interests, particularly in
20 the San Joaquin, and I have the same feeling there are
21 opportunities in the Sacramento.

22 Then overall, the general approach to the
23 plan, all of the comments were reasonably
24 well-received, I thought, and will be considered as
25 they go through redrafting the plan.

1 I think that's about it for me.

2 PRESIDENT CARTER: Thank you. Ms. Rie has
3 departed.

4 I think what I'm going to report on is that I
5 participated via phone on the Roundtable. I thought
6 the discussions were productive. There is still a lot
7 more work to be done there.

8 Butch, you asked about the schedule. I think
9 the schedule is ambitious, but the fact that the
10 parties are willing to try and meet on a regular basis
11 allows us to keep it in front of -- on the front of the
12 radar scene, and hopefully it will make some progress.

13 Also, I want to share with the rest of the
14 board that Butch, Jay, Ginny, and myself have been
15 discussing -- and maybe, Jay, you were going to talk
16 about this as part of the Executive Officer Report.

17 But we've been discussing the long-term MOA
18 with DWR to supplant our interim MOA. We are making
19 some progress on that and -- but have not met directly
20 with folks from DWR yet. We have not finalized our
21 proposal to them. They have not given us any of a
22 proposal yet either.

23 So I think we're -- collectively as a group,
24 the four of us are pretty comfortable with where we're
25 headed and proactive in terms of developing a document

1 or agreement that would certainly work for us and we'll
2 negotiate with them.

3 And it follows along the lines that we've
4 discussed in the past as a group back early in the
5 year. So I think we're making some progress there.

6 I think that's about all I have to share.

7 BOARD MEMBER BROWN: I have one more,
8 Mr. Chairman. I've been asked by the Auburn Dam
9 Council to talk to them on water issues August 4th.
10 I'll put together a presentation for them.

11 PRESIDENT CARTER: That was the Auburn Dam
12 Council?

13 BOARD MEMBER BROWN: Yes, sir.

14 PRESIDENT CARTER: There is an Auburn Dam
15 Council?

16 BOARD MEMBER BROWN: Very active. But Auburn
17 Dam's not.

18 PRESIDENT CARTER: Very good. Okay. Nothing
19 else? Mr. Punia?

20 EXECUTIVE OFFICER PUNIA: Jay Punia.

21 The Board may recall the last Board meeting
22 the Board approved and delegated to the staff to
23 continue to work on the West El Camino Bridge project
24 permit.

25 The US Army Corps of Engineers raised several

1 technical questions during their review process, and I
2 want to inform the Board that our chief engineer, Gary
3 Hester, Steve Dawson, and the local City of Sacramento
4 worked very hard to address the Corps's concerns, and
5 finally they achieved concurrence from the Corps, and
6 their letter will be issued either today or Monday, and
7 we'll be able to issue the permit.

8 It was a major undertaking to resolve all the
9 Corps's concerns. I want to commend Gary's leadership
10 and efforts to resolve the concerns so that we can
11 issue the permit and the construction can be underway
12 very soon.

13 PRESIDENT CARTER: Thank you.

14 BOARD MEMBER BURROUGHS: Thanks Gary.

15 EXECUTIVE OFFICER PUNIA: The other item I
16 want to report that the Board asked and we are working
17 on a flowchart showing all the permit process.

18 We had our first draft we shared with the
19 Executive Committee, Ben Carter and Butch Hodgkins.
20 They have brought in some feedback that they want the
21 flowchart to be a separate one for the maintenance-type
22 permits, encroachment permits, under 20810 section and
23 another one under section 408.

24 And they also recommended we should have a
25 separate chart underneath so that people can see the

1 time more easily, how much time it takes.

2 So Geoff is working on it. We will again
3 share with the Executive Committee and then will bring
4 it to the full Board so that they can see. And
5 ultimately the goal is to put it on the website so that
6 the general public can see our process and how much it
7 takes to get a permit.

8 Board Member John Brown and Butch Hodgkins and
9 myself and Ginny Cahill met with Ken Kirby and George
10 Qualley as directed by the Board at the last meeting so
11 that we can provide further comments on the Department
12 of Water Resources extrinsic plan for implementing
13 FloodSAFE program, so they will incorporate those
14 comments they received at this meeting.

15 Long-term MOA, Ginny Cahill is taking the lead
16 and has been mentioned we have a draft which we are
17 refining it and will share with Department of Water
18 Resources at our next Executive Committee meeting.

19 I, at the request of Department of Water
20 Resources, participated with George Qualley for the
21 selection of the chief of the Flood Project Office, and
22 the interviews are finished, and the Department will be
23 offering the job in the next week or so to the top
24 candidate.

25 Dan Fua and Debbie Smith are investigating

1 information to respond to a lawsuit filed by
2 Reclamation District 2086, Cortopassi landowners. They
3 are claiming that the Department of Water Resources,
4 State Land Commission and the Central Valley Flood
5 Protection Board haven't performed their duties by not
6 dredging the river, and thus has increased the risk of
7 flooding for their property.

8 So Dan is not here today because he's
9 compiling the information so that Debbie can defend the
10 State.

11 As requested by the Board, and in particular
12 Board Member Emma Suarez, to draw up a spreadsheet
13 showing Board's responsibility based upon the new
14 floodplain legislation.

15 Geoff worked on this spreadsheet. That should
16 be included in your packet. That shows what are the
17 new responsibilities based on the new legislation.
18 Geoff took DWR's spreadsheet and previously some data
19 compiled by Board Member Emma Suarez and compiled in a
20 single spreadsheet showing when DWR will submit the
21 information to us and what actions we need to take.

22 I think Board Member Rose Marie and President
23 Ben have briefed on the Roundtable meeting. I think I
24 just want to express that I'm -- that the Resources
25 Agency wants to continue this California Roundtable.

1 They are thinking this is a collaborative approach we
2 should continue, whereas DWR's thinking is that they
3 will be -- as part of their FloodSAFE, they will have
4 these type of opportunities and hire facilitators.

5 But the desire from the Board Members and the
6 Resources Agency is to have independent collaborative
7 efforts. So we will continue dialogue on this subject
8 with the Department of Water Resources.

9 408 Task Force members have sent a letter to
10 the US Army Corps of Engineers to share their technical
11 guidance working on the 408 process so that we have a
12 chance to review their draft and so that we can provide
13 comments.

14 Originally, the Corps was not planning to
15 share their draft guidelines. Hopefully with this
16 letter from the Task Force, they will open their
17 guidelines for comments from the State of California
18 and other participants in the 408 process.

19 And we are also working on our framework
20 document and Memorandum of Understanding which will be
21 sent to the Corps, and the thinking is that the US Army
22 Corps of Engineers -- Central Valley Flood Protection
23 Board and the US Army Corps of Engineers will sign on
24 this MOU accepting the framework document that we
25 aren't going to implement the project until we have our

1 Plan of Flood Control developed and accepted.

2 And as I mentioned previously, we will have
3 our first meeting of the San Joaquin Subcommittee on
4 May 30. As you know, the members of this subcommittee
5 are Butch Hodgkins, Member Rose Marie, and Teri Rie.

6 And as for the status for the salaries for the
7 Board Members, the package has been -- the DWR has
8 prepared a package, and that has been approved by The
9 Resources Agency, and the packet is sent to the
10 Governor's office.

11 Once it's approved by the Governor's office,
12 then it will go to the Department of Personnel
13 Administration. Then once it's approved by Department
14 of Personnel Administration, only then the Department
15 will be able to issue you the checks for the hours you
16 worked.

17 So I'm encouraging -- I think we have been
18 directed that we may inform the Board Members to please
19 keep track of your hours and submit your hours on a
20 monthly basis to Lorraine so that we have a record of
21 those hours.

22 BOARD MEMBER BURROUGHS: I'd like to make a
23 comment about that. It is not possible for me to keep
24 track of my hours. I guess it's possible; I just don't
25 want to. Is there any way we can discuss a better way

1 of handling that?

2 BOARD MEMBER BROWN: Yes. We will discuss it
3 maybe -- yes. I think the direction to us is that if
4 we have to document that you worked 60 hours, then each
5 Board Member who will document that they worked
6 60 hours, they will be compensated fully, but otherwise
7 compensation has to be proportionally decreased.

8 So I think I'll get a little more guidance,
9 then we can maybe discuss what's the best way to
10 monitor these hours. That's the direction we are given
11 at a staff level we need to document the hours and show
12 that if the Board Members' documentation is that they
13 worked 60 hours, then they will be given the full
14 compensation; otherwise the compensation will be
15 reduced proportionally.

16 BOARD MEMBER BURROUGHS: Is there a reason why
17 we are being paid per hour with the new design of the
18 Board and what had been originally approved by the
19 Governor's office in terms of compensation to the Board
20 Members? Why are we going now to an hourly rate?

21 EXECUTIVE OFFICER PUNIA: I think there the
22 staff's -- DWR staff's interpretation of the
23 legislation. The language said the Board Member will
24 be paid full amount if they work up to 60 hours minimum
25 60 hours per month.

1 So I think to document that, yes, that the
2 Board Members spent 60 hours per month, so to do that,
3 we pay the full amount, we need to know that -- we need
4 a record. So that's the reference.

5 Maybe Lorraine might have additional
6 information on this subject.

7 STAFF ANALYST PENDLEBURY: Lorraine
8 Pendlebury. Rose Marie, when this legislation first
9 passed and we started researching, we found out that it
10 was based upon the same system the Air Resources Board
11 uses.

12 So we spoke to those folks over there, and
13 it's pretty much the same thing, and it is prorated.
14 Up to 60 hours gets the full salary. 60 hours gets the
15 full salary. Anything less, they divide at 60 hours --
16 the monthly salary by 60 hours, and it's prorated at
17 that per hour which wound up to 50-something an hour.

18 Okay, so we were instructed by DWR accounting
19 that because that is the case, that then we need to
20 somehow keep track of hours, and that's why we set up
21 the form for you folks to keep track of it.

22 PRESIDENT CARTER: Do the Air Resources Board
23 members keep track and submit hours on a monthly basis?

24 STAFF ANALYST PENDLEBURY: Yes, as far as I
25 know, they do.

1 EXECUTIVE OFFICER PUNIA: We can express the
2 concerns to DWR accounting staff and see what their
3 reaction is and keep you informed.

4 STAFF ANALYST PENDLEBURY: We can. We can
5 look into it further if you like.

6 BOARD MEMBER BURROUGHS: Very much so.
7 Because it's a task I don't want to be burdened with.
8 I don't know about other Board Members, but I'm not
9 interested in keeping -- having to keep an hourly rate
10 of every time I call someone or who I called or who I
11 talked to or for how long.

12 STAFF ANALYST PENDLEBURY: I understand.
13 There may be some auditing issues here as well. So
14 we'll look into it further. Okay.

15 PRESIDENT CARTER: Jay or Lorraine, would you
16 please supply me with names and numbers of the
17 equivalent Executive Officer of the Air Resources Board
18 and the Chair of that Board.

19 BOARD MEMBER BURROUGHS: Thank you.

20 PRESIDENT CARTER: Anything else, Jay?

21 EXECUTIVE OFFICER PUNIA: Yes. Let's see.

22 As required by Assembly Bill 5, Department of
23 Water Resources has developed the floodplain map
24 showing 100-year and 200-year floodplain protected by
25 the levees.

1 Those maps have been delivered to us
2 yesterday, and DWR will make a formal presentation to
3 the Board at the June meeting. And those maps will be
4 linked -- I think the legislation requires that the
5 Board website should have a link to those maps, and we
6 will make arrangements to put on our website.

7 BOARD MEMBER BURROUGHS: Excuse me, I have
8 another question. Do you have a summary of what
9 percent in the mapping were put on the list for
10 decertification?

11 EXECUTIVE OFFICER PUNIA: These maps were not
12 related to decertification. These are just to show the
13 flood risk. That's my understanding, that people who
14 are living behind the levees and there is a --

15 BOARD MEMBER BURROUGHS: Is it broken up into
16 different priorities; and if so, how many categories is
17 that?

18 EXECUTIVE OFFICER PUNIA: I haven't yet
19 reviewed it. And maybe next month DWR will be here.
20 They'll provide you much more detail what's in these
21 maps.

22 BOARD MEMBER BURROUGHS: Thank you.

23 EXECUTIVE OFFICER PUNIA: And as mentioned
24 previously, to recruit staff at the correction session,
25 Gary Hester and Eric participated in the interview

1 process so that we can fill the positions with DWR.

2 There is a meeting of the Delta Protection
3 Commission May 22. Linda Fiack, Executive Officer,
4 asked DWR and the Rec Board to participate in that
5 meeting. We have discussion with the Department of
6 Water Resources and will present DWR, and Dan Fua will
7 represent the Board, Central Valley Flood Protection
8 Board, so that if there is questions related to our
9 jurisdiction then Dan can answer those questions.

10 PRESIDENT CARTER: What was the date again?

11 EXECUTIVE OFFICER PUNIA: May 22nd.

12 PRESIDENT CARTER: May 22nd.

13 EXECUTIVE OFFICER PUNIA: And we are
14 continuing to coordinate it with DWR so that we have
15 some kind of representation showed the flood risk in
16 that area, and other -- and we are also inviting FEMA
17 personnel there so he or she can answer the questions
18 related to FEMA floodplains.

19 I think that's it from me unless you have any
20 questions on any of these items.

21 BOARD MEMBER BURROUGHS: Did anyone attend the
22 collaborative meeting. I wasn't able to attend that.

23 EXECUTIVE OFFICER PUNIA: I think maybe Dan
24 attended. I was not able to attend this month's
25 collaborative meeting.

1 One more item. The Board asked us to draw up
2 a spreadsheet showing the status of the permits, and we
3 have developed it. If you have two minutes, I want
4 Eric to give you a good synopsis of that to show what's
5 in the spreadsheet. In two or three minutes, Eric can
6 give you a synopsis.

7 PRESIDENT CARTER: That's fine. You said we
8 had in our packet the spreadsheet showing the
9 milestones for the legislation. I didn't find that.

10 VICE-PRESIDENT HODGKINS: Very last item.

11 STAFF ANALYST PENDLEBURY: It's in your Board
12 packet.

13 EXECUTIVE OFFICER PUNIA: This is a
14 compilation of all of Emma's work that summarizes all
15 action we have taken based upon the new legislation.

16 PRESIDENT CARTER: Thank you.

17 SENIOR ENGINEER BUTLER: I'll make it a minute
18 and a half.

19 With respect to several requests to keep you
20 more apprised as to the total balance of permits that
21 we have received that we're working on, this
22 spreadsheet -- and you should have a copy of it; I'm
23 going to go over it in a lot of detail -- was prepared.

24 We have a database where we enter in certain
25 information about the various permits as we track

1 through our process of taking them in to finally
2 getting them to being issued.

3 It's an internal database, probably not best
4 suited right now to update you folks, so what I did
5 based on some earlier work by John's section is I
6 turned it into an Excel spreadsheet.

7 And we're at least going to use this approach
8 for the next few months. Hopefully we can long-term
9 get it more database-driven so it's easily updated.

10 But basically what I did is across the top of
11 every page, it just reminds you in this particular
12 case, there's 135 as of Wednesday open applications
13 meaning those that you have not approved.

14 And scheduled between the May and June
15 meeting, basically scheduled today or proposed to be
16 scheduled for June, there is 20 of those 135 permits,
17 and 8 of those permits you have approved but are still
18 awaiting issuance for some technical reasons that have
19 yet to be worked out.

20 We're trying to show meta data about each
21 thing. Over time this will evolve to meet our needs
22 more clearly, but basically the first page is just
23 what's been approved so far by the Board. I've moved
24 those up to the top.

25 So we have on the first page from January

1 through April approved permits.

2 The second page is the items that were
3 scheduled for today's Consent Calendar.

4 The third page is what we are proposing for
5 the June calendar.

6 And then after that it's simply sorted
7 numerically by permit number in the far left-hand
8 column.

9 Ultimately, I hope to be able to make this
10 more informative. The Xs basically were supposed to
11 show that, yes, that condition's been met. I'd like to
12 be more descriptive. When was it met, for instance, or
13 by whom.

14 We also, the Corps column for Corps approval,
15 Corps of Engineers, I want to differentiate between 208
16 or 408 review, for instance.

17 Then out on the far right I added what meeting
18 is it scheduled for, when was the permit issued, and
19 some of the CEQA-related stuff was in the middle.

20 I think at this point we're interested in
21 feedback. How often would you like to receive this?
22 I'm keeping it up in realtime right now, so it wouldn't
23 be a problem to include it in your monthly Board
24 packet, or we could go to bi-monthly, whatever your
25 pleasure is.

1 EXECUTIVE OFFICER PUNIA: I think out of this
2 135, the majority of the permits which are --
3 applications which are pending, the applicant hasn't
4 given us all the pieces to take an action or bring it
5 to the Board.

6 Sometimes the Board may take a perception
7 there are 135 pending applications, but those are
8 applications on file but we are awaiting information
9 from the applicant so that we can take action.

10 BOARD MEMBER BURROUGHS: Maybe we can have a
11 column that says completed, whatever, applicant
12 completed paperwork or whatever the terminology would
13 be.

14 SENIOR ENGINEER BUTLER: I'm going to be
15 adding some more things. I know right now there's no
16 sort of general summary to you that says where is this.

17 You know, there are some milestones, those
18 tend to come late. It doesn't say anything about where
19 are we in -- are we actively working on it, waiting for
20 something from the applicant.

21 BOARD MEMBER BURROUGHS: One thing that would
22 be helpful, just in a summary, if just you could
23 highlight, just a summary, say currently 136, 20 are
24 in -- you know, maybe those round numbers would be
25 good.

1 I personally don't need to have a copy every
2 month, but I would like to have an updated copy by
3 e-mail if that's possible.

4 SENIOR ENGINEER BUTLER: It's a small file,
5 not a problem.

6 PRESIDENT CARTER: If you could have a status
7 column that said, you know, application complete or
8 application pending or.

9 SENIOR ENGINEER BUTLER: My intention is to
10 add that.

11 PRESIDENT CARTER: With something that
12 indicates where it is.

13 BOARD MEMBER BURROUGHS: One other column I
14 might suggest because it has been a problem, track that
15 waiting for Corps comments or whatever other comments
16 we wait for.

17 PRESIDENT CARTER: That would be great.

18 SENIOR ENGINEER BUTLER: The Corps column is
19 on there. That's the 208, 408.

20 BOARD MEMBER BURROUGHS: But sometimes we're
21 waiting for their comments.

22 SENIOR ENGINEER BUTLER: Okay. So I could
23 incorporate more language rather than just a blank.
24 Okay.

25 BOARD MEMBER BURROUGHS: That's --

1 SENIOR ENGINEER BUTLER: One question I have
2 for you, one alternative is on our biweekly updates,
3 this could easily be added then.

4 BOARD MEMBER BURROUGHS: I think once a month
5 is good enough.

6 PRESIDENT CARTER: Yeah.

7 SENIOR ENGINEER BUTLER: Okay.

8 EXECUTIVE OFFICER PUNIA: So the last thing I
9 want to give to the Board, we are tracking closely, and
10 we'll keep you updated from time to time where we are.
11 And a lot of applications are being held at our end
12 because we don't have all the information to take
13 action.

14 BOARD MEMBER BURROUGHS: I think it will be
15 interesting to see the spreadsheet as we move along the
16 year.

17 SENIOR ENGINEER BUTLER: I think we've
18 received close to 30 applications over the last two
19 calendar months, so we're about breaking even right now
20 in our ability to process.

21 BOARD MEMBER BURROUGHS: One thing I'd like to
22 just discuss a possibility, but if we get a huge
23 overload and we need -- we can't complete it in one
24 day, then if we have a spreadsheet showing us what we
25 have and in the pipe, what's coming down, you know, it

1 might help us schedule if we were to need an extra
2 Board meeting.

3 PRESIDENT CARTER: Okay. Thank you,
4 Mr. Punia.

5 Move on to Item 19, Future Agenda. There
6 today staff supplied a draft copy future agenda. I
7 don't know if you've had a chance to look at it. Are
8 there any particular items for June you'd like to put
9 on the agenda? Board or staff.

10 What we have on the first page is typical
11 boilerplate with the addition of Item 5, a discussion,
12 potential action item. I think it's probably more
13 likely to be -- well, if we can take action on
14 Transition to the Central Valley Flood Protection Board
15 so this would be a discussion regarding potential
16 approval of the long-term MOA with DWR.

17 And then we have another extensive Consent
18 Calendar with permits. Related to that, has staff
19 given any consideration to Teri's idea regarding ways
20 to streamline the Consent Calendar slash permitting
21 processing and approval here?

22 EXECUTIVE OFFICER PUNIA: I think Ginny had a
23 discussion with Teri, but it looks like what Teri,
24 Board Member Teri was recommending was not conducive to
25 what we are doing. Maybe Ginny can elaborate a little

1 more on this subject.

2 DEPUTY ATTORNEY GENERAL CAHILL: I don't
3 remember that conversation very well. But what I will
4 tell you is that I'm seeing the staff reports sort of
5 start to adopt a template, you know, the staff has
6 figured out what they do under CEQA the exemption and
7 Neg Dec, EIR, make sure they have all the right pieces.

8 So I think the staff reports are typically
9 down to about two pages. I don't think you're going to
10 be able to shrink them a whole lot more; they've got to
11 saw what the project is.

12 So I think you've actually made a lot of
13 progress. I think it's -- the difference between
14 January and now, I think we're learning our way.

15 PRESIDENT CARTER: Okay. So we'll look for
16 further improvement in that regard as well.

17 DEPUTY ATTORNEY GENERAL CAHILL: While
18 continuing to press for legislation.

19 PRESIDENT CARTER: At the same time. In the
20 same breath.

21 We have another Sac Bank Mitigated Negative
22 Declaration. Is that in addition to the one we did
23 today?

24 DEPUTY ATTORNEY GENERAL CAHILL: Yes.

25 PRESIDENT CARTER: Under Item 10. Folsom Dam

1 safety. Another environmental issue, no hearings or
2 decisions. Sutter County feasibility. Is this for the
3 setback levee?

4 EXECUTIVE OFFICER PUNIA: No, this is a
5 feasibility study, ongoing feasibility study on the
6 Sutter County side. This is separate than LD1. LD1 is
7 one component which may fall into the feasibility
8 study. This is for the overall basin Sutter County.

9 PRESIDENT CARTER: Then the Lower San Joaquin
10 River feasibility investigation. AB 1147 cost sharing?

11 EXECUTIVE OFFICER PUNIA: This a program which
12 the DWR is taking the lead on this program, and they
13 want to brief the Board. This is a cost sharing with
14 the locals on flood control projects.

15 So it's a briefing so that the Board is aware
16 of what the proposal is on the cost sharing with the
17 locals on flood control projects.

18 PRESIDENT CARTER: Okay. So is there anything
19 else that you'd like to add? Anything pressing?

20 SENIOR ENGINEER BUTLER: Based on today's
21 hearing, we can strike proposed calendar item 8D. That
22 was we were going to move the Caltrans bridge project
23 to next month.

24 PRESIDENT CARTER: Okay. We need to do that
25 today?

1 BOARD MEMBER BURROUGHS: The ones we scratched
2 today add on?

3 EXECUTIVE OFFICER PUNIA: Yes, the ones we
4 scratched automatically will add on the next one.

5 PRESIDENT CARTER: Okay. Hearing nothing
6 else, we'll go ahead and proceed. We will refine this
7 agenda, review it a couple more times, and then
8 hopefully get it out on time to you all.

9 If there's nothing else, no other comments,
10 ladies and gentlemen we are adjourned.

11 * * *

12 (Thereupon the CENTRAL VALLEY FLOOD
13 PROTECTION BOARD meeting adjourned at
14 4:11 p.m.)
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6 meeting was reported in shorthand by me, Linda Kay
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10 I further certify that I am not of counsel or
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12 any way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand this June 2, 2008.

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